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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 440

CLIVE MICHAEL BOUTILIER,

Petitioner,

v.

THE IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

BRIEF OF THE HOMOSEXUAL LAW REFORM SOCIETY OF AMERICA, AMICUS CURIAE

INTEREST OF AMICUS

The Homosexual Law Reform Society of America (formerly The Janus Society of America) was formed principally to "work toward the improvement of prevailing attitudes, practices and laws respecting sexual behavior."

The Society has received letters from the Solicitor General of the United States and petitioner's counsel stating their consent to the filing of this brief.

While the Society is in general agreement with the arguments set forth in the brief for petitioner, the Society's brief is confined to the issue of the Constitutional propri-

ety of deporting an alien as "afflicted with psychopathic personality" solely on the basis of his admitted homosexual experiences, as this alone of the several issues falls clearly within the scope of the Society's purpose and expertise.

SUMMARY OF ARGUMENT

As the Government's effort to deport the petitioner is based upon its determination that he is "afflicted with psychopathic personality," and that determination is based solely on the occurrence of certain homosexual acts disclosed by the petitioner, the questions are raised whether the Government may, without violating due process, (1) infer psychopathology from homosexuality, without more; or (2) if not, declare as a matter of law that homosexuality indicates psychopathology.

An inference or presumption created by the legislature must be rationally connected to the ultimate fact to be established. *Tot v. United States*, 319 U.S. 463 (1943); *United States v. Romano*, 382 U.S. 136 (1965). Therefore, the petitioner is denied due process of law unless psychopathology may reasonably be inferred from homosexuality as a matter of fact.

The term "psychopathic personality" is a medical or psychiatric term; it has no other meaning. It involves some kind of mental disorder or disease. There is widespread professional opinion that homosexuality *per se* does not indicate psychopathology in general or psychopathic personality in particular. Such scientific evidence as is available, particularly the testing and research of Hooker, DeLuca and Schofield, support that opinion.

The labelling of a person who commits homosexual acts as a "deviant" and as a "psychopathic personality" has to do with the preservation of society's dominant value system rather than with mental disturbance. It involves the abuse of psychiatric terminology for the purpose of social control. This is a step on the way to the "therapeutic state."

A decent society will not equate difference with deviance. Due process of law should be deemed to assure this element of decency.

ARGUMENT

By virtue of certain homosexual experiences admitted by the petitioner, doctors of the U. S. Health Service certified that at the time of his entry into the United States in 1955 the petitioner was a "psychopathic personality," to wit, a sexual deviate. The Government seeks to deport the petitioner.

As the Government gave the petitioner no medical or psychiatric examination, the issue is squarely raised whether "a homosexual" may, without more, be regarded as a psychopathic personality. This inquiry comprises two questions:

1. Does homosexuality *per se* indicate psychopathology?

2. If homosexuality *per se* does not in fact indicate psychopathology, can the Government in due process of law declare as a matter of law that it does?

The first question is pertinent only if the answer to the second is in the negative.

The second question, which should be considered first, touches upon the relationship of government and truth, of law and scientific knowledge.

"The growth of knowledge is one of the most irreversible forces known to mankind."[1] The advancement of civilization depends upon the gradual triumph of scientific knowledge over "folk knowledge."

> "The fundamental difference between scientific knowledge and folk knowledge . . . is that the folk knowledge is derived essentially from empirical inference and casual observation whereas scientific knowledge is derived from necessary infer-

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[1] Boulding, Kenneth, *The Meaning of the 20th Century*, Harper and Row (New York, 1964), p. 23.

> ence from theoretical models according to the mathematical logic and carefully organized observations guided by inventions which extend the power of the senses. Scientific and folk images are frequently inconsistent, and as it is always painful to abandon an image, a struggle between the two ensues."[2]

This case is part of the struggle now taking place between the scientific image of homosexuality (or of homosexual conduct) and the folk image of it. In terms of law, it raises the question whether the Government may Constitutionally select and punitively apply the folk image in disregard of the emerging scientific knowledge.

James Otis in 1764 framed the same issue as between Parliament's laws and natural laws:

> "There must be in every instance, a higher authority, viz. God. Should an act of parliament be against any of *his* natural laws, which are *immutably* true, their declaration would be contrary to eternal truth, equity and justice, and consequently void . . . When such mistake is evident and palpable . . . the judges of the executive courts have declared the act 'of a whole parliament void'."[3]

In contemporary terms, Walter Lippman recently restated this issue in an address sponsored by the Center for the Study of Democratic Institutions:

> ". . . in the field of truth and error about the nature of things, and of the history and future of the universe and of man, the state and its officials have no jurisdiction. When the scholar finds that two and two make four, no policeman, no judge, no governor, no legislature, no trustee, no rich alumnus, has any right to ordain that two and two make five . . . Here, it is the community of scholars who are the court of last resort."[4]

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[2] *Ibid.*, p. 56.

[3] "Rights of the British Colonies," Quoted in Commager, Henry Steele, *Living Ideas in America*, Harper and Brothers, Incorporated (New York, 1951), p. 124.

[4] "The University," *The New Republic*, May 28, 1966, p. 18.

Once it is recognized, for example, that "There neither are nor ever were witches, that having made a compact with the devil, can send a devil to torment other people at a distance," the judicial labelling and punishing of people as witches must come to an end. [5]

The Supreme Court has recognized that an inference or presumption created by the legislature must be rationally connected to the ultimate fact to be established. *Tot v. United States*, 319 U.S. 463 (1943). See also *United States v. Romano*, 382 U.S. 136 (1965).

Therefore, if it be found that homosexuality *per se* may not reasonably be deemed to indicate psychopathology, the Government's imposition of such an inference or presumption deprives the petitioner of due process of law.

The first question, involving the validity of that inference or presumption, is, therefore, raised: does homosexuality *per se* indicate psychopathology? Or has the scientific knowledge of homosexuality undercut the folk image of "the homosexual" as "sick"?

The Court below sought to avoid this issue by holding that in its reference (in the Immigration and Nationality Act of 1952 (66 Stat. 163; Title 8, U. S. Code)) to "aliens afflicted with psychopathic personality," [6]

> ". . . Congress utilized the phrase 'psychopathic personality' not as a medical or psychiatric formulation but as a legal term of art designed to preclude the admission of homosexual aliens into the United States" 363 F.2d at 494.

The term "psychopathic personality," unfortunately for that effort, *is* a medical or psychiatric term. Whether or not is has meaning as such, which is another question, clearly it has no other meaning.

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[5] See Cantor, G., "How Black is Black?" *The Legal Intelligencer* (Philadelphia), July 21, 1966, p. 1.

[6] See 212(a)(4), 8 U.S. Code § 1182.

Webster's New International Dictionary, Third Edition, defines psychopathy as:

> "1. Mental disorder in general.
>
> "2. More commonly, mental disorder not amounting to insanity or taking the specific form of a psychoneurosis, but characterized by defect of character or personality, eccentricity, emotional instability, inadequacy or perversity of conduct, undue conceit and suspiciousness, or lack of common sense, social feeling, self-control, truthfulness, energy, or persistence. Different psycopathic individuals show different combinations of these traits.
>
> "3. Incorrectly, psychotherapeutics." [7]

The principal meaning of the prefix *"psycho-,"* as given by the same source is: "combining form, Greek *psycho-, psych-,* from *psyche,* meaning *life, soul,* as in *psycho*pannychism, *psycho*stacy, used to denote: *a Mind, mental processes and activities,* as in *psycho*logy, *psycho*metric, *psycho*dynamic, *psychi*atry. [8]

Pathology, of course, refers to disease:

> "1. The science treating of diseases, their essential nature, causes . . . and development, and the structural and functional changes produced by them . . .
>
> "2. The morbid changes, collectively, arising in disease; the condition, as of an organ, tissue, or fluid, produced by disease; as the *pathology* of the nervous system, of the mind, of childhood.
>
> "3. The study of the effects of emotion on the subject. *Now Rare.*" [9]

That the term "psychopathic personality" relates to the mind, and to the mind's illness, disease or disorder of some kind is inescapable. The linguistic roots, the dic-

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[7] Page 2002.

[8] Page 2001.

[9] *Ibid.*, p. 1792.

tionary definitions, and the professional utilization of the term and its component parts all point to the same conclusion.

Similarly, the statute itself shows that Congress intended to use a medical or psychiatric term. Section 212 (a)(4), 8 U.S. Code § 1182, refers to aliens afflicted with "psychopathic personality, epilepsy, or mental defect," a strange (and misleading) grouping if one of the three is not a medical or psychiatric term. Further, Section 234, 8 U.S. Code § 1224, provides for the physical and mental examination of arriving aliens by *medical officers* of the United States Public Health Service, who are to certify any "physical and mental defect or disease" observed by them. There is no alternate arrangement for others to detect non-medical and non-psychiatric personality disorders, whatever they might be.

Moreover, the Court below implicitly agrees [10] that if the issue had been raised upon the petitioner's entry into the country, rather than in subsequent deportation proceedings, Section 234, *supra*, would apply. But what would be the relevance if a report by *medical officers* of the U. S. Public Health Service as to the alien's "psychopathic personality" *if the latter is not a medical term*?

We are left then, with the question as originally framed without the judicial gloss attempted by the Court of Appeals: does homosexuality *per se* indicate psychopathology?

To amplify this question: assuming (1) that the term "homosexual" can properly be applied to a person rather than an act, (2) that the term homosexual can properly be applied to the petitioner in this case, and (3) that the term "psychopathic personality" can be understood (even) as a medical or psychiatric term—each of these assumptions being unproved and subject to serious question—does the petitioner's homosexuality indicate some sort of mental disease or disorder (psychopathology)?

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[10] 363 F.2d at 492.

England's famous Wolfenden Report[11] faced this issue precisely. Recognizing that there is no legal definition of "disease" or "disease of the mind," and no medical definition that covers all of its varieties, the Report adopted the "traditional view" that for a condition to be recognized as a disease three criteria must be met:

> "(i) the presence of abnormal symptoms, which are caused by (ii) a demonstrable pathological condition, in turn caused by (iii) some factor called 'the cause,' each link in this chain being understood as something necessarily antecedent to the next."[12]

The evidence suggested to the Committee that homosexuality does not satisfy any of those three criteria "unless the terms in which they are defined are expanded beyond what could reasonably be regarded as legitimate."[13] The Report, in this context, goes on to say:

> "Besides the notion of homosexuality as a disease, there have been alternative hypotheses offered by others of our expert witnesses. Some have preferred to regard it as a state of arrested development. Some, particularly among the biologists, regard it simply as a natural deviation. Others, again, regard it as a universal potentiality which can develop in response to a variety of factors.
>
> "We do not consider ourselves qualified to pronounce on controversial and scientific matters of this kind, but we feel bound to say that the evidence put before us has not established to our satisfaction that homosexuality is a disease."[14]

Scientific knowledge of homosexual behavior and of so-called homosexuals is limited but growing. Dr. Evelyn Hooker, Research Associate in Psychology at the University of California at Los Angeles, gave a series of psychological tests to a group of 30 homosexuals and

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[11] Report of the Committee on Homosexual Offences and Prostitution, Lancer Books (New York, 1964).

[12] *Ibid.*, p. 30.

[13] *Ibid.*, p. 31.

[14] *Ibid.*, p. 33.

30 heterosexuals matched for age, I.Q. and education. The homosexuals were chosen on the basis of good adjustment and function in the community. Dr. Hooker's hypothesis was that homosexuality is not necessarily a symptom of pathology. The test materials were analyzed by different, independent judges who did not know whether a record was that of a homosexual or a heterosexual. The judges could not readily identify whether the record was that of a homosexual or heterosexual subject. Various ratings of the subjects' "adjustment" were made on the basis of the test results, and there was no significant difference between the homosexuals and the heterosexuals.

Dr. Hooker's tentative conclusions were:

> "1. Homosexuality as a clinical entity does not exist. Its forms are as varied as those of heterosexuality.
>
> "2. Homosexuality may be a deviation in sexual pattern which is within the normal range, psychologically . . .
>
> "3. The role of particular forms of sexual desire and expression in personality structure and development may be less important than has previously been assumed. Even if one assumes that homosexuality represents a severe form of maladjustment to society in the sexual area of behavior, this does not necessarily mean that the homosexual must be severely maladjusted in other sectors of his behavior. Or, if one assumes that homosexuality is a form of severe maladjustment internally, it may be that the disturbance is limited to the sexual sector alone."[15]

Dr. Joseph N. DeLuca, now Director of the Psychology Department of the New Jersey State Hospital, Greystone Park, New Jersey, gave a series of tests to 42 overt homosexuals and 25 heterosexual controls, all of whom were Army inductees at Fort Jackson, South Carolina. He reported:

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[15] Hooker, Evelyn, "The Adjustment of the Male Overt Homosexual," in Ruitenbeek, Hendrik M., *The Problem of Homosexuality in Modern Society*, E. P. Dutton & Co., Inc. (New York, 1963), pp. 160-161.

"The results of the study suggest that homosexuals do not constitute a homogeneous group and that homosexuality does not exist as a distinct clinical entity. . . .

"The issue of whether homosexuals are more pathologic than normals, in the light of the present findings, seems to have been an unwarranted assumption, based more on armchair theorizing than experimental evidence . . ." [16]

In England, Michael Schofield studied three classes of homosexuals, (1) those in prison, (2) those currently under treatment, and (3) those who had never been in prison or under treatment. He used three control groups which were composed of (1) pedophiles, (2) heterosexuals currently under treatment, and (3) heterosexuals who had never been in prison or under treatment. Each of the six groups studied comprised 50 persons. As a result of his research and studies, he arrived at the following formulation:

"Homosexuality is a condition which in itself has only minor effects upon the development of the personality. But the attitudes, not of the homosexual, but of other people towards this condition, create a stress situation which can have a profound effect upon personality development and can lead to character deterioration of a kind which prohibits effective integration with the community.

"A proportion of homosexuals are unable to withstand the pressures from outside and become social casualties. These are the homosexuals most often found in prisons and clinics. Their difficulties may take a form not directly associated with the homosexual condition, although originally caused by the social hostility shown towards homosexuality. On the other hand the homosexuals who have learnt to contend with these social pressures can become adjusted to their condition and integrated with the community. These men are hardly ever found in prisons and clinics." [17]

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[16] DeLuca, J. M., "The Structure of Homosexuality," *Journal of Projective Techniques and Personality Assessment*, May, 1966. A copy of this article is annexed hereto as Appendix A.

[17] Schofield, Michael, *Sociological Aspects of Homosexuality*, Little, Brown and Company (Boston, 1965), p. 203.

The scientific data is not uniformly accepted by psychiatrists and psychoanalysts. While many agree that homosexuality is not necessarily psychopathology, others insist that pathology is involved. In doing so, they either ignore the experimental data entirely, *viz.*, Dr. Philip H. Heersema, "Homosexuality and the Physician," *Journal of the American Medical Association*, September 6, 1965, or they question the methods, *viz.*, Bieber, Irving H. et al., *Homosexuality*, Basic Books (New York, 1962).[18]

A clear distinction should be drawn between research conducted in accordance with the principles of the scientific method, on the one hand, and assumptions, on the other. Thus the *assumptions* of psychoanalytic theory offer resistance to scientific data:

> "All *psychoanalytic* theories *assume* that adult homosexuality is psychopathologic . . ."[19] ("Assume" emphasis supplied.)

Compare, however, the observation of Dr. Judd Marmor, Director of the Division of Psychiatry of Cedars-Sinai Medical Center, Los Angeles, California:

> "If the judgments of psychoanalysts about heterosexuals were based only on those they see as patients, would they not have the same skew impression of heterosexuals as a group?"[20]

Sigmund Freud, in his famous "Letter to an American Mother,"[21] advises that homosexuality:

> ". . . cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development. . . . *If* he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, *whether he remains a homosexual or gets changed.*" (Emphasis supplied.)

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[18] Pages 305-306.

[19] Ibid., p. 18

[20] Appendix D, p. 60.

[21] Reprinted in Ruitenbeek, *op. cit.*, pp. 1-2. A copy of Freud's "Letter" is annexed hereto as Appendix B.

In order to cast further light on the question whether homosexuality *per se* indicates psychopathology, the *amicus curiae* addressed a letter, in the form annexed hereto as Appendix C, to prominent persons in the fields of psychoanalysis, psychiatry, psychology, sociology, anthropology and biology, in the United States and abroad. Each was asked for a letter "outlining your position in reference to the question of homosexuality and psychopathology."

Copies of all of the letters timely received, excepting only those in which the writer expressed either his want of competence in this area or his lack of time to reply, are annexed hereto as Appendix D. [22] On the specific question raised, the following responses are typical:

Dr. Judd Marmor:

> ". . . current scientific evidence shows no justification for classifying homosexuals automatically as psychopathic personalities. To do so is a clear indication of stereotyping based on social prejudice and not on scientific evidence."

Dr. Harry Benjamin: "Homosexual behavior cannot possibly be interpreted as evidence of a 'psycopathic personality'."

Dr. Hendrik M. Ruitenbeek: "It is my firm and considerate [considered] opinion that there is no link between homosexuality and psychopathology."

Michael Schofield: "The idea that homosexuality is pathological is incorrect . . ."

Dr. Isadore Rubin:

> "It is my professional opinion that any attempt to classify an individual as a 'psychopathic personality' purely on the basis of the fact of his homosexuality is both grossly unjust and highly unscientific."

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[22] Also annexed as Appendix E, is a collection of opinions entitled: "Is Homosexuality a Sickness" compiled by the Committee on Religious Concerns of the Mattachine Society of Washington.

Dr. Paul H. Gebhard: ". . . homosexuality is not a pathology in itself nor necessarily a symptom of some other pathology."

Dr. Norman Reider:

> "Homosexuality *per se* is no evidence of psychopathology . . . To relegate by definition homosexuality into the category of 'psychopathic personality' has been for years a convenient dispositional device by armed services, courts and diagnostic centers. This practice is falling away by all scientifically-minded workers in the field as evasive, unscientific and discriminating."

Dr. Ernest van den Haag: ". . . I find no reasons and no evidence to assume that homosexuals have a 'psychopathological' personality."

Dr. Ray B. Evans: "It is grossly inaccurate to confound psychopathic or sociopathic characteristics with sexual preferences."

Dr. Thomas S. Szasz: "In my judgment, homosexuality is neither a bodily disease, nor a mental illness, nor a symptom or manifestation of 'psychopathic personality'."

Dr. Lester A. Kirkendall: "Just as heterosexuality cannot be automatically equated with healthy personalities, so is it impossible to equate homosexuality with 'psychopathic personality'."

Dr. Peter M. Bentler: "The available data indicate any randomly selected homosexual would be no more likely to be psychopathic than any randomly selected heterosexual."

Other letters in Appendix D include similar statements, some include opinions less clearcut, and a few refrain from answering the question precisely. A number of the letters contain useful analyses of the subject, to which the attention of the Court is invited. Among those is the comment of Dr. Albert Ellis, Executive Director of the Institute for Rational Living:

> "Although a case might be made that all exclusive fixed homosexuals are more or less neurotic, it could also be contended that all exclusive fixed heterosexuals are also neurotic since they are fixated on one kind of sexual behavior, and have great difficulty in engaging flexibly in other kinds of behavior."

The same position is precisely developed in Norman O. Brown's psychoanalytical interpretation of history, *Life Against Death:*[23]

> "The discarded elements of infantile sexuality are, judged by the standard of normal adult sexuality, perverse. The adult sexual perversions, *like normal adult sexuality*, are well-organized tyrannies: they too represent an exaggerated concentration on one of the many erotic potentialities present in the human body, which are all actively explored in infancy. The manner of this tyranny, as well as the *close connection between normal and perverted sexuality*, is illustrated by the fact that various erotic activities, which are called perversions if they are pursued as substitutes for the normal sexual act, are called legitimate if they are subordinated as preliminaries to the normal sexual aim. Children, on the other hand, explore in indiscriminate and anarchistic fashion all the erotic potentialities of the human body. In Freudian terms, children are polymorphously perverse. But if infantile sexuality, judged by the standards of normal adult sexuality, is perverse, by the same token *normal adult sexuality, judged by the standard of infantile sexuality*, is an unnatural restriction of the erotic potentialities of the human body." (Emphasis supplied.)

The point here is not to demonstrate that we are all neurotic, but to recognize that in labelling the homosexual as a sexual deviant and a psychopathic personality (and other things as well), we have not discovered a classification of disturbed persons; rather we have created such a classification in the purposeful but unscientific pursuit of certain non-medical ends.

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[23] Brown, Norman O., *Life Against Death*, Vintage Books (New York, 1959), p. 27.

This becomes even clearer when we consider the Kinsey data on homosexual behavior.

> "Kinsey's statistics indicated that about 4 per cent of adult white males are exclusively homosexual after adolescence, and that about 10 per cent of the total male population is to a greater or lesser degree exclusively homosexual for at least three years some time between the ages of sixteen and sixty-five."[24]

An even more remarkable finding was that at least 37 percent of the total male population has had some overt homosexual experience, some time between puberty and old age. The Kinsey Report stated:

> "The opinion that homosexual activity in itself provides evidence of a psychopathic personality is materially challenged by these incidence and frequency data. Of the 40 or 50 per cent of the male population which has homosexual experience, certainly a high proportion would not be considered psychopathic personalities on the basis of anything else in their histories."[25]

The Kinsey statistics indicate, first of all, that homosexual conduct cannot *per se* be taken to refute normalcy unless we are prepared to accept a definition of "normalcy" that excludes nearly 40 per cent of the adult male population. The figures also show, importantly, that in a society that places a high value on heterosexuality, whatever the sources of that valuation may be, *a substantial part of the population has reason, in their own overt behavior, to fear the weakening of that value system.*

As Dr. Szasz has pointed out, the homosexual, because he rejects heterosexuality, undermines its value. Thus he threatens society not by his actual behavior but by the symbolic significance of his acts.[26] "Society," then,

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[24] Bieber, *op. cit.*, p. 16.

[25] Kinsey, Pomeroy, Martin, *Sexual Behavior in the Human Male*, W. B. Saunders Co. (1948), p. 660.

[26] Szasz, Thomas S., "Legal and Moral Aspects of Homosexuality" in Marmor, Judd, et al., *Sexual Inversion*, Basic Books, Inc., (New York, 1965), p. 135.

threatened from within and from without, labels certain persons as homosexuals and labels homosexuals as deviants (particularly psychopathic). Deviance, it should be recognized,

> "[I]s *not* a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender.' The deviant is one to whom that label has been successfully applied; deviant behavior is behavior that people so label."[27]

By labelling the deviant, and applying certain sanctions as a consequence of the label, the social ideal (exclusive heterosexuality) is made clearer by contrast and is made alone to appear desirable. The ties among the non-deviant citizens, and their security in adhering to the social ideal, are strengthened by their common opposition to the rejected and excluded. In order to maintain and to dwell in the social paradise of acceptable behavior, we maintain a hell of deviance, to which the homosexual is assigned.[28]

The practice is in no way improved by the Government's use of psychological or psychiatric terminology: "psychopathic personality."

> "In the past, discrimination has been based chiefly on nationality, race, religion and economic status; today, there is a mounting tendency to base it on psychiatric considerations. Since these practices rest on allegedly scientific grounds, and are implemented by professional persons, the ethical issues they pose are especially delicate."[29]

If psychologists and psychiatrists wish to move beyond "mental illness" understood as (a) diseases of the brain, such as general paresis, and (b) diseases of the mind, i.e.

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[27] Becker, Howard S., *Outsiders: Studies in the Sociology of Deviance*, The Free Press of Glencoe, Inc. (New York, 1963), p. 9.

[28] See Reiwald, Paul, *Society and Its Criminals*, International Universities Press, Inc. (New York, 1950), Ch. VII.

[29] Szasz, Thomas S., *Law, Liberty and Psychiatry*, The Macmillan Company, (New York, 1963), p. 17.

functional illnesses such as schizophrenia, and to categorize and label what they regard from time to time as significant recurrent patterns of behavior, this does not justify the state in adopting those categories and labels and using them to enforce certain ethical, political and social norms.

That is precisely what the Government is doing to the petitioner in this case. Based on the commission of certain homosexual acts, and in disregard of the psychiatric evidence submitted on the petitioner's behalf, and in disregard of the widely held and scientifically buttressed view that homosexuality *per se* does not indicate psychopathology, the Government has utilized the label "psychopathic personality" and extended it by the "intent of Congress" automatically to include all homosexuals.

To permit this is to take a step in the direction of the "therapeutic state," which Dr. Szasz has described[30] and which was dramatized in Ward 7,[31] a depiction of a Soviet "lunatic asylum" which holds 6000 patients, only one of whom is a "lunatic" and the rest are "victims of their lot as Soviet citizens." The object of Ward 7 was "to damage, not to cure." "In fact, there were neither patients nor doctors but only jailers in charge of inconvenient citizens."[32]

"Is there no life, but these alone? Madman or slave, must man be one?"[33]

It is submitted that the better attitude toward "inconvenient" persons is that prescribed by John Stuart Mill:

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[30] *Ibid.*, Ch. 18.

[31] Tarsis, Valering, *Ward* 7, E. P. Dutton & Co., Inc. (New York, 1966).

[32] *Ibid.*, p. 25.

[33] From Matthew Arnold's "A Summer Night," in Palgrave, Frances T., *The Golden Treasury*, The Macmillan Company (New York, 1945), p. 469.

> "If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode . . . .
>
> ". . . different persons also required different conditions for their spiritual development; and can no more exist healthily in the same moral, than all the variety of plants can in the same physical, atmosphere and climate . . . The same mode of life is a healthy excitement to one, keeping all his facilities of action and enjoyment in their best order, while to another it is a distracting burthen, which suspends or crushes all internal life. Such are the differences among human beings in their sources of pleasure, their susceptibilities of pain, and the operation on them of different physical and moral agencies, that unless there is a corresponding diversity in their modes of life, they neither obtain their fair share of happiness, nor grow up to the mental, moral, and aesthetic stature of which their nature is capable."[34]

The matter, we suggest, should be laid to rest that simply. The scientific knowledge of homosexuality which is now available supports the proposition that homosexuality *per se* does not indicate psychopathology. If our scientific knowledge is incomplete, that gap does not justify, and due process should bar, the arbitrary labelling and punishment of the homosexual.

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[34]Mill, J. S., *On Liberty*, in *Great Books of the Western World*, Encyclopaedia Brittanica, Inc. (Chicago, 1952), Vol. 43, p. 299.

That homosexuality and heterosexuality represent anything other than "differences among human beings in their sources of pleasure" has not been established. A decent society will not stigmatize and punish as deviance that which is merely difference. The assurance of such decency should in this case be derived from the Constitutional guarantee of due process.

Respectfully submitted,

Gilbert M. Cantor
Attorney for the Homosexual Law Reform Society of America, Amicus Curiae

APPENDIX A

THE STRUCTURE OF HOMOSEXUALITY

JOSEPH V. DE LUCA
USAH, Fort Jackson, South Carolina

The purpose of this study was to contribute to an understanding of the reasons underlying the controversy and contradictory experimental evidence pertaining to the nature of homosexuality (Hooker, 1957, 1958; Wheeler, 1949; David, 1955; Fein, 1950; Dodge, 1960). The basic issues have been:

1. Do homosexuals comprise a homogeneous group; i.e., does homosexuality constitute a a clinical entity?
2. Are homosexuals, as a group, more pathologic than normals?
3. Is there a creative potential associated with homosexuality?
4. If homosexuality is a defense, what is the nature of the anxiety that motivates the appearance of this symptom?

The reasons for the lack of demonstrable experimental evidence in regard to all of the above questions appear to be that: pertinent hypotheses have not been employed that would provide meaningful evidence if either supported or disproved; the nature of the samples used has tended to be inadequate; inappropriate statistical models, e.g., parametric tests, are often employed; and the meaning of Rorschach responses has been distorted in attempts to explain away negative results.

Based upon a critical review of the literature and upon the main body of psychoanalytic theory in regard to homosexuality (Freud, 1948; Fenichel, 1946; Ferenczi, 1950), the following hypotheses were derived:

1. Differences in the structure of personality, as revealed by the Rorschach technique, exist among the active-vs.-passive and fellatio-vs.-sodomy dimensions of homosexuality.
2. Differences in the number and kinds of homosexual signs are a function not only of the presence or absence of homosexuality but also the subgrouping within the category of homosexuality.
3. The homosexual group will not employ a more primitive ego adaptation or show more primary process than the normals.
4. The homosexual group is not more creative as manifest by Klopfer's scheme for evaluating creative potentials (Klopfer, 1954).
5. The nature of the anxiety defended against varies with the variety of behavioral expression of homosexuality.

The independent variables consisted of ten subgroups within the category of overt male homosexuality (N = 42), the homosexuals as a whole (N = 42), and a control group of normals (N = 25). The dependent variables were 75 Rorschach dimensions and the 20 signs of homosexuality most often appearing in the literature (Wheeler, 1949). There was a total of 12 independent variables and 95 dependent variables.

The ten subgroups of homosexuality were based on the active-passive and fellatio-sodomy dimensions as well as those combinations of each dimension which in the author's experience had appeared often enough to suggest a subgroup. The ten subgroups were passive (N = 13), active (N = 10), active and passive (N = 19), active and passive fellatio (N = 8), active and passive fellatio and active and passive sodomy (N = 9), passive fellatio (N = 7), passive sodomy (N = 5), active fellatio (N = 6), fellatio (N = 21), and sodomy (N = 6).

METHOD

Subjects

All Ss had been recently inducted into the U.S. Army and were undergoing their basic training at Ft. Jackson, South Carolina. There were no significant differences in age, education, or intelligence as measured by the Army Classification Battery between any of the 12 groups. The mean age, education, and equivalent WAIS-IQ score for the homosexual groups was 21.1, 11.0, and 95, respectively. The normals' mean age, education, and intelligence were 21.8, 11.9, and 99, respectively.

Of the Ss who had a history of overt homosexual behavior and were currently engaged in homosexual activities, 95% indicated when questioned, that they were determined to continue this way of life and expressed no motivation to become involved in heterosexual activity. Eighty-five per cent of the Ss had been initially referred to the Mental Hygiene Consultation Service of the U.S. Army Hospital by their unit and the other 15% were self-referrals. Prior to seeing the Examiner (E), all Ss had been made aware of their impending separation from service. No S was used in the study, either homosexual or normal, who had a history of organicity or psychiatric hospitalization, who had the equivalent of a WAIS-IQ score of 80 or below, or who displaced clinical evidence of psychosis.

Twenty-five men who were also in basic training but temporarily confined to the hospital for upper respiratory infections (mostly bad colds) were used as normal controls. All of these Ss were selected by picking names from the ward roster at random.

PROCEDURE

Each homosexual S, after having met the criteria for selection, was seen by the E for an interview. The main purpose of the interview was to establish rapport. During the interview it was explained that he was going to be asked to do some things for research purposes that would probably contribute to the understanding of homosexuality. The same procedure was followed with the normal Ss except that they were not informed that the study was concerned with homosexuality. All Ss were cooperative.

The Rorschach technique was then administered according to the Klopfer method (Klopfer, 1954). Inquiry was always made as to the sex of the figures on card III. In addition, each S was asked to select the one card he liked the best and the one card he liked the least. Upon completion of the Rorschach, all homosexual Ss were asked about the characteristic manner in which they performed the homosexual act. They all tended to respond readily and described both the manner in which they often experienced the act as well as that from which they received the most pleasure. There were no discrepancies between desired manner and actual manner.

Scoring

The scoring of each Rorschach protocol was done on three separate occasions: the first, immediately after the administration; the second, several weeks later, with the identity of the group to which the S belonged missing; and the third, on those protocols where there was a disparity on the determinants assinged (3% of the cases). The scoring method used was Klopfer's (Klopfer, 1954). All Rorschach signs were scored according to the criteria set forth by Wheeler (1949).

RESULTS

The Kruskal-Wallis tests were used to determine whether the 12 groups represented significantly different populations in regard to the 75 Rorschach dimensions. A significant difference beyond the .001 level was revealed among the 12 groups on the following Rorschach dimensions: W, W , D, F, FM, M, FC, CF, Fc, cF, KF, H, A, Ad, At, Pl, response to chromatic cards %, response to achromatic cards %, total time, average reaction time, average RT achromatic cards, average RT chromatic cards. Significance between the .05 and .01 levels was found on the following dimensions: W:M, FM:M, CF, Fk, d, and dd; therefore, the 12 groups differed from each other beyond the .05 level on 28 of the 75 Rorschach dimensions.

The Mann-Whitney U test was applied to all pairs of groups that Kruskall-Wallis tests suggested were significantly different from each other. This was

done to see if some of the pairs were not significantly different from each other on a particular Rorschach dimension even through the 12 groups as a whole appeared to be from the initial Kruskal-Wallis analysis. All pairs differed significantly from each other beyond the .05 level.

The Fischer Exact Probability Test revealed that all 12 groups differed from each other beyond the .005 level, in the total number of signs obtained by each; however, chi-square analysis demonstrated that no individual sign was able to differentiate, beyond the .05 level, between the homosexuals as a whole and the normals, or any other pair of groups. Four of the 20 signs differed between the .10 and .06 levels (numbers 2, 6, 8, 15, and 19) with the homosexual and normal groups. There was no difference between the homosexual group as a whole and normals on signs, 5, 9, 13, 14, 17, 18, and 20, while signs 1, 3, and 7 loaded in the oposite direction (in favor of the normals).

Analysis with chi-square of the nature of the anxiety defending against revealed no significant relationship with the particular variety of homosexual behavior, e.g., active fellatio, passive sodomy, etc. The most common anxieties appeared to be concerned with psychosexual inadequacy, the father figure, and hostility and disgust toward the female figure. The normal group had significantly less ($p < .01$) hostility and disgust directed toward the female figure and significantly less anxiety connected with the father figure ($p < .05$). The normals were not significantly different from the homosexuals taken as a whole in regard to felt psychosexual inadequacy.

As manifested by per cent of poor-form responses and primitive defenses there was no significant difference found between any of the groups; the evaluation of creative potentials also produced no significant differences.

DISCUSSION

All of the hypotheses were supported by the statistical tests except number 5 and that part of hypothesis 2 which states that the kinds of signs recorded will be a function of the subgroup to which S belongs.

The results of the study suggest that homosexuals do not constitute a homogeneous group and that homosexuality does not exist as a distinct clinical entity. The homosexuals varied from each other as much as they did from the normals in regard to the structure of their personality. They were also distinctly different from each other in the total number of purported signs of homosexuality they accumulated. Although not associated with the particular variation the symptom took, the homosexuals evidenced large variation in the nature of the anxiety they were defending against. The psychoanalytic theories of homosexuality are not supported by the wide variation between subgroups. Previous studies have treated homosexuals as

a homogeneous group. When Es assume that a non-homogeneous group is homogeneous there are bound to be discrepancies in the literature.

The issue of whether homosexuals are more pathologic than normals, in the light of the present findings, seems to have been an unwarranted assumption, based more upon armchair theorizing than experimental evidence. Psychoanalytic theory has in part contributed to this assumption by frequently considering the symptom a result of faulty identificatory processes and pregenital fixations. Difficulties have also arisen from the fact that many Es assume by definition that homosexuality is pathologic, a view which often resulted in a refusal to look for psychopathology in a comparative sense.

The fact that no one Wheeler sign was able to differentiate significantly any of the groups from each other suggests that the use of individual signs may be premature. The use of the total number of signs obtained does appear to be a useful way to distinguish the groups from each other, especially the normals from the homosexuals.

The theoretical propositions which suggest a difference in creative potential for homosexuals as compared to normals may have to be modified if there is continuing evidence for no difference.

The results of this study should be held applicable only to young adult white males of average intelligence who have completed approximately 11 years of education. These results do, however, have broader implications in that they suggest that the label, clinical entity, as applied to other diagnostic categories, might well become suspect if similar investigations were also carried out on Ss representing such categories.

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APPENDIX B

Sigmund Freud*

LETTER TO AN AMERICAN MOTHER

April 9, 1935

DEAR MRS. X

I gather from your letter that your son is a homosexual. I am most impressed by the fact that you do not mention this term yourself in your information about him. May I question you, why do you avoid it? Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development. Many highly respectable individuals of ancient and modern times have been homosexuals, several of the greatest men among them (Plato, Michelangelo, Leonardo da Vinci, etc.). It is a great injustice to persecute homosexuality as a crime, and cruelty too. If you do not believe me, read the books of Havelock Ellis.

By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of the treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed. If you make up your mind he should have analysis with me!! I don't expect you will!! He has to come over to Vienna. I have no intention of leaving here. However, don't neglect to give me your answer.

Sincerely yours with kind wishes,

FREUD

P.S. I did not find it difficult to read your handwriting. Hope you will not find my writing and my English a harder task.

* SIGMUND FREUD, the founder of psychoanalysis, was born in 1856 in Austria and died in 1939 in London. Some of Freud's most famous and significant books are: *The Interpretation of Dreams, On Dreams, The Psychopathology of Everyday Life, The Origin and Development of Psychoanalysis, Three Contributions to the Theory of Sex, Totem and Taboo, Beyond the Pleasure Principle, Civilization and Its Discontents, The Future of an Illusion,* and many others.

APPENDIX C

[redacted]

HOMOSEXUAL LAW REFORM SOCIETY

[redacted]

reform of penal, social and religious laws affecting homosexuals.

suite 206
34 south 17th street
philadelphia, pa. 19103
215 LOcust 3-5100

The United States Immigration and Naturalization Service (INS) is attempting to deport an alien Canadian on the grounds that, as a male homosexual (the fact of his homosexuality is not contested by the defense) he is a "psychopathic personality." Under Federal law "psychopaths" are barred from immigration in the United States.

At the trial on the issue, the INS presented no testimony to support its assumption that homosexuality was pathological or that the individual in question was a "psychopathic personality" — except to let the fact of his homosexuality class him thus. Two independent psychiatrists testified that the particular man in question shows no sign of psychopathology — unless the fact, of his homosexuality was assumed, of itself, to be pathology. On July 8, 1966, the United States Court of Appeals for the Second Circuit (New York) upheld the INS ruling.

Because there are conflicting California cases, the United States Supreme Court was obliged 1/ by the Constitution to mediate the dispute. It accepted the case on November 7, 1966.

At the request of the defense counsel, the Homosexual Law Reform Society of America (formerly the Janus Society of America) has agreed to underwrite a considerable portion of the Supreme Court appeal and to sub-

mit an amicus brief on the question of psychopathology. Our brief will be short, point to the existing evidence, and conclude that homosexuality per se is not pathology. (A full and complete medical section will be appended to the defense brief.)

The HLRS feels that the most be made of this immigration case even though the point at issue is tangential to the central homosexual civil liberties questions. To this end we would appreciate your support of this case by your submitting a letter to us, briefly or in detail, outlining your position in reference to the question of homosexuality and psychopathology.

For your convenience we have attached an information sheet with additional data you might require.

Our full brief must be in the hands of the Court by December 31, 1966 and we earnestly hope that you will be able to take time from your busy schedule to help both the individual involved and the dignity of homosexuals generally.

Yours truly,

Clark P. Polak
Executive Secretary

- - - - - -

1/ While the writer was subsequently advised of the technical error here, no letter of explanation was sent as the error did not alter the central question.

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APPENDIX D

FROM
DR. CLIFFORD ALLEN

TELEPHONE:
[illegible]

148, HARLEY STREET,
LONDON, W.1.
[illegible]

12.12.66

The Executive Secretary,
The Janus Society of America
34S 17th Street,
Philadelphia, Pennsylvania, U.S.A.

Dear Mr. Polak,

Thank you for your letter. I presume that you have written to me because I have done considerable research on homosexuality and have written widely on it. I have recently retired after working in Harley Street as a consultant psychiatrist for some thirty years. In addition I have been Consultant in Charge of the Psychiatric Department of the Seamen's Hospital at Greenwich, London, and Consultant Neuro-psychiatrist to the Ministry of Pensions, London. My books are A Textbook of Psychosexual Disorders, published by the Oxford University Press, Homosexuality published by Staples of London, and Modern Discoveries in Medical Psychology published by Macmillan. I have published also some fifty papers, mainly on sexual abnormality.

In such matters as homosexuality and psychopathy it is wise to define what one is discussing. Homosexuality is usually taken as being attracted to someone of the same sex, sometimes to the point of intercourse ending in orgasm, but this is not always so. By psychopathy we usually mean acting in an antisocial manner (i.e. to the injury of others or society as a whole,)

About five per cent of the population is believed to be permanently homosexual but many people pass through it as a transient phase. Kinsey produced statistics to confirm this. I know of no statistics to show that homo-

sexuality is associated with psychopathy any more than it is associated with heterosexuality. Indeed, such psychopathic activities as rape rarely occur in homosexuality whereas they are common with abnormal heterosexual men. A very large majority of homosexual men behave quietly, go about their business without disturbing, or interfering with others and may be useful citizens. As a general rule the homosexual is not a violent person although homosexuality may be associated with violence, just as heterosexuality but there is no evidence that this is more in one condition than the other. This opinion is upheld by such an expert as Benjamin Karpman, Chief Psychotherapist at St. Elizabeth Hospital, Washington, D.C. who says, "Homosexuality amongst delinquents is a symptom of personality maladjustment manifested in other departments of life other than sexual." And again, "Homosexuals are not as apt to commit non-sexual crimes as are other deviates."

There is a strong probability that homosexuality is much more associated with genius rather than psychopathy. Thus, Gide, Proust, Marlowe, and Francis Bacon were undoubted homosexuals. Leonardo da Vinci, and Donatello as well as Michael Angelo were all known as homosexuals in their lifetime. Tchaikowski and possibly Wagner amongst the musicians were said to show homosexuality. Other men who were somewhat homosexual by implication were Byron, Shelley, Tennison and Goethe. Shakespeare's sonnets are very homosexual and Verlaine's behaviour with Arthur Rimbaud showed a similar attachment. It would be easy to add many more names to this sketchy list.

In my opinion, based on more than thirty five years experience with homosexuals, these people should not be treated in any way other than normal people unless and until they show any antisocial behaviour.

Yours sincerely,

/s/ Clifford Allen, M.D.
M.R.C.P., D.P.M.

ALFRED AUERBACK, M. D.
450 SUTTER STREET
SAN FRANCISCO 8, CALIFORNIA
GARFIELD 1-8630

December 19, 1966

Mr. Clark P. Polak
Executive Secretary
Homosexual Law Reform Society
of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

My name is Alfred Auerback, M.D., 450 Sutter Street, San Francisco, California, and I specialize in the practice of psychiatry. Currently I am Vice President of the American Psychiatric Association and Associate Clinical Professor of Psychiatry at the University of California School of Medicine, San Francisco. My other positions include the following: Member, Mental Health Advisory Board, San Francisco; member, California State Commission on Staffing Patterns; member, Board of Directors, San Francisco Medical Society and its Judicial Council; and member, Mental Health Committee, California Medical Association. I have been Chairman of Symposia, "Sexual Problems in Clinical Practice" at the University of California School of Medicine Continuing Education in Medicine and the Health Sciences in 1965 and 1966.

On April 2, 1966, I presented the following report on Homosexuality in Seattle, Washington in a "Colloquium on Sexual Psychopathy" sponsored by the Washington State Medical Association and co-sponsored by the following:

Washington Superior Court Judges Association
Washington State Bar Association
Legislative Council Sub-committee on Judiciary

Legislative Council Sub-committee on Institutions and Youth Development
Washington Prosecuting Attorneys' Association
Washington State Department of Institutions
Washington Association for Mental Health
Washington State Psychological Association
District Branch, American Psychiatric Association
Washington State Medical Association
Board of Prison Terms and Parole
Washington Correctional Association
Governor's Commission Regarding Sexual Psychopaths and Psychopathic Delinquents
Mental Retardation and Mental Health Advisory Council
Members of the Legislature
Deans of the University of Washington School of Medicine, Law and Social Work and key department heads
Washington-Idaho Council of Churches.
Catholic Archdiocese of Seattle and Spokane
Washington Academy of General Practice
Washington Chapter, National Association of Social Workers
Washington State Department of Health
Washington State Department of Public Assistance
Office of the Superintendent of Public Instruction
Washington State Labor Council

On November 2, 1966 this same paper was delivered at the Annual Meeting of the American Public Health Association held in San Francisco.

Yours sincerely,

/s/ Alfred Auerback, M.D.

Enclosure

HOMOSEXUALITY

Homosexuality has existed throughout all recorded history, at times holding high social acceptance. Only in the last 100 years has it been the subject of open discussion. There has been and still is much confusion about its incidence. At the present, the Kinsey studies provide the best information. Kinsey found male homosexuality to be extremely widespread among the white American population and female homosexuality much less frequent. His findings were that 4% of white males are exclusively homosexual throughout their lives; 18% are almost exclusively homosexual for 3 or more years; 37% of all men have had at least one homosexual experience. He estimated that between 2 and 6% of unmarried women and about 1% of married women are homosexual. Studies in this country and elsewhere in the world do not refute the general pattern outlined by the Kinsey studies. These findings suggest that homosexuality is one of the most common psychological disorders known.

No biological basis for homosexuality has been found. Hormonal studies, even of extremely effeminate men, have shown no variations from normal. There are no measurable physical characteristics to differentiate the homosexual from the heterosexual. Most homosexual men function in our society as normal individuals, only a small percentage showing marked effeminate traits. The effeminate male has a strong need to renounce his biological sex and a conscious or unconscious desire to identify with women and may develop, sometimes to an exaggerated degree, the characteristics such as voice, gestures, and gait that are associated with femininity.

Psychological studies indicate that homosexuality arises from distortions in the individual's psychosexual development. During the child's formative years the absence of a parent, overattachment to a parent, lack of identification or overidentification, and conscious or unconscious parental seduction have all proven to be important to the etiology of homosexuality.

When the father is weak, absent from the home or psychologically displaced by the mother, the boy may overly attach himself to the mother. If the father is tyrannical and abusive to the mother or to the boy he will not identify with the father and will cling to the mother. When either parent is blatantly promiscuous, the boy may develop a fear or distaste of sex. If the mother's attitude is antisexual, he may develop the feeling that sexual expression is wrong, that women should not be defiled. In his teens when normal biological development would cause him to seek out girls, he considers women pure and untouchable and represses his sexual feelings, at times diverting them towards men.

The female homosexual, or lesbian, has been studied less than the male. The law has concerned itself with the male homosexual and at times has punished him severely, but has given no recognition to the existence of female homosexuality. At present there are no laws pertaining to the lesbian. The little girl terrified of the father's violence or alcoholic outbursts may develop a fear of men. Identifying with a domineering mother can give her feelings of contempt for men. Absence of a father through desertion, death or divorce deprives her of an opportunity to develop those techniques that will make her attractive to men. This reduces her chances for marriage, and makes her more vulnerable to initiation into homosexual behavior.

All studies point to the importance of the developing child's relationship with the mother and father. In a warm, loving, consistent relationship with parental figures, during infancy and early childhood, the child incorporates their norms, rules, and social values, and learns his place in the world. In the absence of such relationships his identifications are distorted and the seeds for deviant behavior are planted. A most important variable affecting an individual's psychosexual orientation is the sex role to which he is assigned and in which he is reared. In other words, if the parents want a girl, the

advent of a male child poses a problem. They may consciously accept the child as a boy but unconsciously react to him as though he was a girl. His external appearance may be masculine, but the traits and attitudes instilled in him are feminine. As he grows to adolescence and adulthood he finds himself less and less equipped to react or to think as a male and a shift to homosexuality appears inevitable.

In recent years there has been increasing recognition that being homosexual in itself is not a crime. The Wolfenden Report in England recommended that many of the laws pertaining to homosexuality be eliminated. This recommendation successfully passed after long debate in the British Houses of Parliament.

There is increasing acceptance of the fact that homosexual behavior is not a sex crime; however, society has consistently frowned upon the seduction of the young male child or adolescent. There is some question as to whether homosexuality is really a psychological illness or merely a way of life for a large segment of our population. In most cases it cannot be changed by psychiatric treatment. It is probable that in years to come homosexual behavior between consenting adults will be socially acceptable if conducted in private.

HARRY BENJAMIN, M.D.
44 East 67th Street
New York, New York 10021

December 19, 1966

It is my long considered opinion that homosexuality (better: homosexual inclinations and behavior) is just one variety of sexual behavior in general. In itself, it is no more "pathological" than an oddly-shaped ear, strikingly red hair or left-handedness.

Homosexual behavior cannot possibly be interpreted as evidence of a "psychopathic personality." Too many homosexuals are well balanced people and too many definite psychopaths are completely heterosexual.

Perfectly healthy men and women, healthy in body and mind, can be sexually aroused by members of their own sex. This is as natural and normal to them as the attractiveness of the opposite sex is to heterosexuals.

A difficulty for the correct understanding of homosexuality arises from the fact that its etiology is not yet fully understood. In some people, their sexual behavior may be genetically anchored or could have been determined by prenatal neuro-endocrine influences. In others, childhood conditioning may have been responsible. In no case does homosexual development itself, in later life, indicate psychopathology. Such a concept belongs in the medical wastebasket, with the rest of the errors and superstitions of an ignorant past. To my mind, it ranks with the "toxicity" of the menstruating women, or the "vice" and harmfulness of masturbation.

/s/ Harry Benjamin, M.D.

Sent to the Janus Society

UNIVERSITY OF CALIFORNIA, LOS ANGELES
Department of Psychology
Los Angeles, California 90024

December 21, 1966

Mr. Polak:

By American Psychiatric Association definition, a homosexual is a character disorder - sociopath. Aside from definitions, there is no scientific evidence available that homosexuals show the personality characteristics associated with psychopathic disorders more than randomly selected individuals. Specifically, the crucial variables of (1) inadequate conscience development (2) lack of anxiety and (3) general lack of acceptance of constituted authority do not exist more in homosexuals than non-homosexuals.

There are, no doubt, homosexuals who are psychopathic individuals. In any particular case, competent psychological assessment must decide the question of psychopathy. The available data indicate any randomly selected homosexual would be no more likely to be psychopathic than any randomly selected heterosexual.

Sincerely,

/s/ Peter M. Bentler, Ph.D.
Associate Professor of Psychology
Staff Psychologist, Psychology Clinic

UNIVERSITY OF CALIFORNIA, DAVIS

DEPARTMENT OF PSYCHOLOGY

DAVIS, CALIFORNIA 95616

December 19, 1966

Mr. Clark P. Polak
Homosexual Law Reform Society of America
34 S. Seventeenth Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

Concerning your letter of December 7 (the Boutilier case): my reading of recent social psychological literature (in particular the work of Dr. Hokker) inclines me to the opinion that partial or total commitment to homosexual behavior is by no means sufficient justification for a diagnosis (or verdict) of "psychopathic personality." Whatever the reasons or causes for a homosexual preference may be, there is to my knowledge no reliable information to indicate that these reasons or causes also produce obviously socially dangerous behavior. Of course, the intense social-moral pressures experienced by an admitted or unadmitted "homosexual" individual in our culture may lead to unfortunate psychological consequences. But in this case the harm is not produced by the fact of homosexuality but by public reaction to it.

Yours truly,

/s/ Gordon Bermant
Assistant Professor

Northwest Mental Health Foundation, Inc.
John L. Butler, M. D.
MEDICAL DIRECTOR

PHONE 228-4126
1134 SW MARKET
PORTLAND, OREGON
97201

December 13, 1966

Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania

Dear Mr. Polak:

Since 1949 when I was the psychiatrist at the Naval Retraining Command in Norfolk, Virginia, I have been very much concerned about the plight of the homosexual in our contemporary society. I was one of the few psychiatrists in the Fifth Naval District at that time. You may recall that there was great concern about homosexuals in high places in government. There was a concerted effort to identify practicing homosexuals and to try to discharge them from the Naval Service. Consequently, many men accused of homosexuality were sent to the Fifth Naval District brig where I had to examine them. Since then, my interest in the plight of the homosexual has continued. I was again involved in a major problem of homosexuality when I was Mental Health Director in Idaho in 1955-58.

In my current practice, I work with a number of homosexuals and their families. Because of this full spectrum of direct clinical experiences with the homosexuals I certainly do have an opinion that might be of help to you.

I have concluded that the fact that a person practices homosexuality is not prima-facie evidence that he suffers any significant impairment of judgment, reasoning or of emotional expression. From this point of view, an

individual can engage in homosexual activities, can move consistently through the "gay world", and manage to avoid any significant impairment of vocational mental, emotional, intellectual or interpersonal functions. In many instances, the person who practices homosexuality has been trained to assume the attitudes and behavioral patterns of the opposite sex and is responding most appropriately to his training by following the pattern of attitudes and expressions he uses. To do differently would, perhaps, be evidence of psychopathology unless later experiences would help him reconstruct a new set of attitude and reaction pattern. I believe that the person who practices homosexuality may have experienced a significant deviation from the usual pattern of personality development in our society. This does present us with a social problem, but I vigorously protest the implication that homosexual practices alone are evidence of psychopathology.

My files are well-stocked with clinical information which might be of some service although I'm reluctant to use the time at this writing, to pull together any more details than the opinion above and I hope you will find it useful.

Sincerely,

/s/ John L. Butler, M.D.
Medical Director

Psychopathology and Homosexuality

Joseph N. DeLuca, Ph.D.
290 Madison Avenue
Morristown, New Jersey

Based upon my work as a research scientist studying human behavior, I have not found homosexual men to be significantly different from "normal" men in the degree of psychopathology they evidence. Most of the homosexual men studied by me were not defending against conflicts or anxieties that were any different from there being dealth with by "normal" men of the same age, intelligence, and educational status. My findings therefore suggest that homosexuals are not "sicker" or more pathologic than non-homosexual men.

There was also no evidence that any particular form of deviant behavior (psychosis, psychopathy, neurosis) accompanied the homosexual behavior more often than it was seen in the behavior of non-homosexual men or "normals".

To assume that homosexuality, by definition, is pathologic appears to be an unwarranted assumption.

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AMERICAN PHILOSOPHICAL SOCIETY
held at Philadelphia
for Promoting Useful Knowledge

104 South Fifth Street
Philadelphia, Pa. 19106

December 9, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 South 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak,

I am definitely of the opinion that homosexuality per se is not psychopathology and that it is a gross injustice to exclude a person otherwise eligible for residence in the United States on this ground, as in the Boutilier case cited in your letter of December 7.

Sincerely yours,

/s/ George W. Corner, M.D.
Formerly Chairman,
Committee for Research in
Problems of Sex
National Research Council

UNIVERSITY OF CALIFORNIA, BERKELEY

SCHOOL OF CRIMINOLOGY

BERKELEY, CALIFORNIA

December 19, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

I am very much interested in the legal issue described in your letter of December 7. However, I fear that I am not able to make the kind of statement which would be helpful in your case. I do not think that homosexuality is necessarily indicative of a "psycho-neurosis". I am not prepared to state that homosexuality, in itself, is not psychopathological. In other words, I do not subscribe to the theory that homosexuality can be "normal".

I am sure you will understand my position when I tell you that I was trained as a Freudian psychoanalyst.

I would deeply appreciate it if you would keep me informed of the outcome of your case.

Sincerely yours,

/s/ Bernard L. Diamond, M.D.
Professor

RALPH B.ELIAS, M.D., D.A.B.
490 SUTTER STREET, ROOM 2315
SAN FRANCISCO, CALIF. 94108
GARFIELD 1-4290

January 3, 1967

Clark P. Polak, Executive Secretary
Homosexual Law Reform Society
34 S. 17th Street
Philadelphia, Pennsylvania

Dear Sir:

This is in reply to your letter of December 7, 1966 requesting an outline of my opinion as a psychiatrist concerning the questions of homosexuality and psychopathology. I am sorry that it is not more prompt.

Firstly, I consider psychopathology to be an unscientific, misleading term. Psychopathology, or mental illness, are metaphors which erroneously correlate diverse problems of human existence with organ maladies such as pulmonary pathology produced by the t.b. bacillus or malfunction of the pancreas which is diabetes. Inappropriate nomenclature leads to improper concepts and operations in any field in which knowledge is involved.

What is called psychopathology is generally not disease or illness of the brain but is correctly understood as difficulty in personal conduct or psychosocial problems. If the individual is sufficiently vexed by his problems, he seeks psychotherapy, an educational engagement whereby he learns to cope with them more adequately. If others are concerned by his conduct, they often seek to have him segregated under duress rather than attempt non-coercive means of modifying his thoughts or behavior. But a basic value of a free society is freedom for every one who doesn't injure any one else. And the values of a society are directly reflected

in its psychiatry as well as in its laws. (For an exposition of this theory see the writings of Thomas S. Szasz, Professor of Psychiatry at Syracuse University who is its leading exponent.)

Secondly, in reference to the term, psychopathic personality, and the specific case you are helping to appeal, there is, as the case citations indicate, general agreement among psychiatrists that this is an ambiguous attempt at categorization. It should not be included in the phrase, "afflicted with psychopathic personality, epilepsy or mental defect," the latter two designations having definite medical or psychological standards of diagnosis.

Thirdly, I think that homosexuality, or more precisely homoerotic inclination, is a process of vicissitude in some individuals and of almost infinite variability within the human species. Because of the long history of sanctions and persecution in western society, a person with this tendency will continually encounter difficulties related to it. At one extreme, some may become "hung up in this bag," or obsessed with it; at the other end of the spectrum, some may develop full supression or sublimation.

The early life of one with a homoerotic disposition was probably impaired in some manner. But it is not infrequent that individuals with adverse nurturing or constitution transcend their handicaps to make important contributions to their society. And the strength of a free society is grounded in the opportunity it offers every one including those who fulfill themselves by dissent and deviation. As John Stuart Mill noted, stringent conformity produced the deterioration of the ancient and advanced culture of China,

Homosexuality is a condition of existence for some human beings, derived mainly from the attitudes towards love and sex in which they were reared. Today, perhaps

for the first time in two thousand years, in this century among free people, there has begun the endeavor by social scientists and leaders in religion and the arts to consider it openly and honestly. Only by continuing this understanding in accord with the values to which we are committed, as with the many other problems with which we are confronted, can we truly evolve as an affluent nation.

/s/ Ralph B. Elias, M.D.
Psychiatry

UNIVERSITY OF LOUISVILLE
LOUISVILLE, KENTUCKY 40202

SCHOOL OF MEDICINE
DEPARTMENT OF ANATOMY

501 WEST CHESTNUT STREET

December 21, 1966

Mr. Clark P. Polak
Executive Secretary
Homosexual Law Reform Society
of America
Suite 206, 34 S. 17th St.
Philadelphia, Pennsylvania

Dear Mr. Polak:

I have given your recent letter much consideration and hope I may be of some assistance.

A brief outline regarding some of my general feelings on the relationships of homosexuality and psychopathology is attached. I trust you will find it of some use.

Sincerely,

/s/ Milton Diamond, Ph.D.
Assistant Professor

Enclosure

Homosexuality and Psychopathology

In the classical census of human male sexual behavior by Kinsey, Pomeroy and Martin, the concept that homosexual activity, by itself, provides evidence of a psychopathic personality is materially challenged. This is rightly so since those scientists present evidence that from 40% to 50% of the male population have had homosexual experiences and over 15% prefer this general type of sexual expression to heterosexuality. These same individuals reported upon, however, could not be considered psychopathic on the basis of anything else in their histories and it would seem absurd to consider such a large portion of the population psychopathic due to this one trait.

In seeking a definition of sexual psychopathology, or any psychopathology for that matter, it must be admitted that we cannot depend only on a criteria of frequency of occurrence; individuals who parachute for a hobby may be rare in our society yet wouldn't necessarily be considered psychopathic. Similarly, males with a preponderance of homosexual experiences should not be considered psychopathic just because they don't constitute the majority of males. The crux of a definition might hinge on establishing the existence of a "mental disorder" which invariably is present. Here, too, no evidence exists which supports the notion that a disorder exists unless the fact that homosexuals, having certain sexual preferences, are prima facia considered emotionally and behaviorally disturbed. In truth the evidence may be otherwise since many individuals are disturbed more by societies antagonism to their practices rather than by their own behavior. The majority of homosexuals go unrecognized as such by society since they create no disturbance or manifest other symptoms of "disorder."

In discussing sexuality we have many behavioral characteristics to describe. The category choice of

"homosexual" versus "heterosexual" is arbitrary and only one of many used for descriptive convenience. While in some ways the terms still serve a purpose, it is now recognized that sexual behavior is not stereotyped that easily and that for example, fourteen categories are employed by Kinsey and others to discuss the relative proportion of completed same-sex and opposite-sex contacts. Those individuals, male or feamles, who prefer to have all their sexual contacts with an individual of the same sex, would fall into one of these fourteen categories (which actually represent about 4% of the male and 2% of the female population).

If we choose to discuss the actual sexual practice utilized or preferred i.e. fellatio or anal penetration, or any other category, regardless of sex or partner, these same individuals may assort into completely different groups; even well within the general population. Thus with our arbitrary way of categorizing sex we would be hard put to say that the choice of sex partner is, by itself, indicative of anything psychopathic.

A comment may be appropriate as to the origins of sexual preferences and practices. Kallman (1952) and others have shown that homosexuality must indeed have a genetic component. I (1965, 1967 in press) have shown that an endocrine balance during development might be crucial for adult sexual orientation. Others have shown that ontogenetic experiences may contribute. In none of these studies is there any indication that these influences carry with them socially disturbing concommitant personality or mental disorders. When and if such occurs it must be considered an individual case and treated as such.

Lastly it may be said that societies exist in which almost any sexual practice between consenting adults is condoned and even sanctioned (Ford and Beach, 1951; Mead, 1961). Although these do not necessarily conform

to Judao-Christian morals, in our non-theocratic state, this should be immaterial. It may be further argued that it is when an individual of any behavioral description is thwarted from pursuing his private and strictly personal interests, he may be suspect as a potential danger to society. An overly aggressive heterosexual individual may indeed be more detrimental to society than any homosexual would be.

Milton Diamond, Ph.D.

INSTITUTE
FOR
RATIONAL LIVING
INCORPORATED
a non-profit organization

December 9, 1966

Clark P. Polak
Executive Secretary
Homosexual Law Reform Society
of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

In answer to your letter of December 6th, let me briefly state my position on homosexuality and psychopathology.

1. I do not feel that homosexual behavior in itself is in the least pathological, since the percentage of American males who have some kind of homosexual overt contact at some time during their lives is very large, and may well amount to about 40%.

2. Fixed or exclusive homosexuality in which the individual does not only practice overt homosexual acts from time to time, but also is mainly or only oriented toward members of his own sex, and has great difficulty in having sex relations with members of the opposite sex, may be and often is pathological. This is because in our culture most individuals who are fixed homosexuals are neurotically or psychotically obsessed with homosexual behavior, and have a great fear of engaging in heterosexual acts. Many of them, as well, are quite compulsive in their homosexual behavior.

3. Although a case might be made that all exclusive fixed homosexuals are more or less neurotic, it could also be contended that all exclusive fixed heterosexuals are also neurotic since they are fixated on one kind of sexual behavior, and have great difficulty in engaging flexibly in other kinds of behavior. Actually, neurotic or psychotic behavior includes an unusual degree of ri-

gidity, inflexibility, compulsivity and anxiety, and therefore, both exclusively homosexual and exclusively heterosexual individuals may not necessarily be neurotic or psychotic.

4. It is my opinion as a clinical psychologist, and one who has seen and treated a great many fixed homosexuals in the United States, that the vast majority of them are seriously disturbed individuals, and that they are either neurotic or psychotic. The vast majority, however, does not mean all, and it is also my opinion that there are some, though be it relatively few, fixed homosexuals in this country, who are well adjusted to the state of homosexuality, who are not guilty about it, who are not particularly compulsive, and who are therefore, at most only moderately neurotic.

5. A psychopathic personality usually is a term employed to mean an individual who is not only seriously disturbed, but is disturbed in an antisocial manner, and who is driven by his disturbance to keep committing acts of a criminal or delinquent nature. Although some fixed homosexuals may be justly diagnosed under the heading of this term, it is my firm opinion that most of them could not be so justly labeled. Any law which calls an individual a psychopathic personality merely because he is homosexual in his inclinations and acts is an inaccurately stated law, and I would highly recommend that it be radically changed or eliminated from the statute books.

6. I feel that many of our existing laws against fixed homosexuality are antiquated and unfair in that they unscientifically discriminate against individuals who may at the very worst boastfully be disturbed, but some of whom would be much less neurotic, psychotic, and psychopathic then are a great number of completely heterosexual individuals in our society.

Sincerely yours,

/s/ Albert Ellis, Ph.D.
Executive Director

LOMA LINDA UNIVERSITY

SCHOOL OF MEDICINE
DEPARTMENT OF PSYCHIATRY

LOMA LINDA
CALIFORNIA
9 2 3 5 4

December 12, 1966

Mr. Clark P. Polak
Homosexual Law Reform Society
Philadelphia, Pennsylvania

Dear Mr. Polak:

With regard to the case of Boutilier vs. Immigration and Naturalization Service, I am ignorant of the legal formalities involved in an amicus brief, and will therefore simply give you my views regarding homosexuality and psychopathology.

The diagnostic label psychopathic personality has long been considered inadequate, and was replaced by the term sociopathic personality in the 1952 revision of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. Use of the term sociopathic personality, which emphasizes the social nature of the problem, is now widespread, but the concept remains basically the same. Whether called psychopathic or sociopathic, the cardinal characteristics of such individuals are usually considered to include an inability to learn from experience, impulsive antisocial acts, and absence of feelings of social responsibility. The APA manual continues to classify sexual deviations, including homosexuality, under the general category of sociopathic personality disturbances; nevertheless, few psychiatrists or psychologists consider sexual deviates to be necessarily sociopathic in any sense other than that their sexual behavior often (but not always) has social implications. Two major writers who specifically say sexual deviations should not be classified as sociopathic disturbances are H. Cleckly ("Psychopathic

States," in S. Arieti (Ed.), American Handbook of Psychiatry, New York, Basic Books, 1959) and N. Cameron (Personality Development and Psychopathology, Boston, Houghton Mifflin Co., 1963)

For the past two years I have been doing research at the University of Southern California School of Medicine involving personality-somatotype-hormone patterns in homosexual vs. heterosexual males. Data are still being gathered and no formal findings are available at this time, but in my judgment, homosexuality does not necessarily involve psychopathology. There are homosexual individuals who can properly be called sociopathic (based on irresponsibility, impulsiveness, lack of regard for others), but it has nothing to do with their homosexuality as such. The designation psychopathic or sociopathic personality implies nothing regarding form of sexual expression; likewise, the designation homosexual does not connote any particular personality or character formation. Homosexuals are extremely heterogeneous, with virtually nothing in common except the matter of attraction to members of their own sex. In terms of socialization, they range from virtual lack to highly developed sense of responsibility. It is grossly inaccurate to confound psychopathic or sociopathic characteristics with sexual preferences.

Sincerely yours,

/s/ Ray B. Evans, Ph.D.
Assistant Professor Psychiatry

INDIANA UNIVERSITY
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Founded by Alfred C. Kinsey
JORDAN HALL 318 / BLOOMINGTON, INDIANA 47401 / AREA CODE 812 TEL. NO. 337-3525

Trustees
Paul H. Gebhard
Cornelia V. Christenson
John H. Gagnon
William Simon
Theodore W. Torrey

December 14, 1966

Mr. Clark P. Polak
Homosexual Law Reform Society
of America
34 South 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

This letter is in reply to your communication of December 6 wherein you ask for the collective opinion of the members of the Institute for Sex Research on the connection between homosexuality and psychopathology.

Our opinion, based upon extensive interviewing and other data, is as follows. Certain expressions of homosexuality may be symptoms of pathology, just as certain heterosexual activities may be indicative of emotional disturbance. However, homosexuality is not a pathology in itself nor necessarily a symptom of some other pathology.

Sincerely yours,

/s/ Paul H. Gebhard
Director

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98105

School of Medicine
Department of Psychiatry

December 9, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 South 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

In reference to your recent letter in which you asked me to outline my views on the justification for equating homosexuality and psychopathic personality, my views are, briefly, as follows: The older term "psychopathic personality" has as you know been supplanted, in official nosology, by the term antisocial reaction. Both of these terms are still used interchangeably by psychiatrists to refer specifically to a group of chronically antisocial individuals "who are always in trouble, profiting neither from experience nor punishment, and maintaining no real loyalties to any person, group, or code. They are frequently callous and hedonistic showing marked emotional immaturity, with a lack of sense of responsibility, lack of judgment and an ability to rationalize their behavior so that it appears warranted, reasonable and justified" (quoted from the A.P.A. Diagnostic and Statistical Manual of Mental Disorders).

I know of no knowledgeable and thoughtful psychiatrist who would automatically categorize a homosexual person as a "psychopathic personality" ("antisocial reaction"). This mixup does occur in legal thinking, however, and to some extent we psychiatrists may have contributed to it inasmuch as the Diagnostic and Statistical Manual still continues to lump sexual deviation, antisocial reaction, addiction and alcoholism under the general heading of "Sociopathic Personality Disturbance." The terms socio-

path and psy opath sound so much alike that the confusion is compounded. The truth, of course, is that just as some alcoholics may be "psychopathic personalities" ("antisocial reaction") so too some homosexual persons may be "psychopathic personalities." But in neither case does this constitute a very large percentage of the total. My point is that when law views all homosexuals as "psychopathic personalities" it is guilty of using faulty logic. It is the same order of faulty logic as saying "alcoholism occurs in businessmen therefore all businessmen are alcoholic."

Contemporary psychiatry sees homosexuality as having several origins (see reprint enclosed). In some instances it is an expression of a serious underlying mental illness such as schizophrenia, but in most instances the homosexual life-style is the product of certain complex early learning influences and should not be thought of as a "mental illness" or "psychopathology" in the traditional sense of that term. Whether society approves, disapproves, tolerates, or sanctions homosexuality is quite a separate issue which behavioral science is not directly concerned with (though behavioral scientists as individuals do have opinions about).

I would, of course, venture no opinion on the person involved in the litigation you mentioned, except to say that if he were truly an "antisocial personality" (psychopath), as I defined earlier, I would, as a citizen, not favor his immigration. But this is an entirely separate matter from that of his homosexual life-style.

I trust this answers the questions raised by your letter.

Sincerely yours,

/s/ John L. Hampson, M.D.
Associate Professor of
Psychiatry

Enclosure

ZOO ZÜRICH SCHWEIZ · SUISSE · SWITZERLAND
DIREKTION TEL. 051 24 33 11 POSTCHECK 80 - 1818

December 13, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania USA

Dear Sir,

I suppose that you wrote me on 6th December, 1966 owing to the fact of my collaboration at the book "Sex and Behavior", edited by Frank A. Beach, published by John Wiley & Sons, Inc., New York, London, Sydney — 1965. This collaboration was the result of the participation at a two-stage-conference on Sex and Behavior in Berkeley for which I had been invited by the US National Academy. With regard to my research work on comparative behavior I have also to study comparative sex problems for what I am in touch with medical men and psychiatrists.

My opinion is that it is not right to declare that a homosexual is a psychopathic personality. I think that homosexuals can exist without having also psychopathic traits.

The United States Immigration and Naturalization Service should also remember that homosexuality cannot be inheritable contrary to dispositions of psychopathic diseases.

May I add that, as far as I know, homosexuality cannot be the reason for deportation in Switzerland.

Yours sincerely,

/s/ H. Hediger
Professor

OREGON STATE UNIVERSITY CORVALLIS, OREGON 97331
SCHOOL OF HOME ECONOMICS

December 22, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

I am responding to your letter of December 6th in which you ask that I outline my "position in reference to the question of homosexuality and psychopathology."

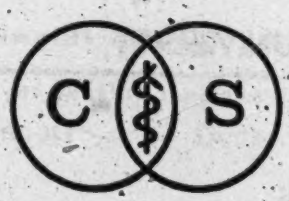
The assumption that homosexuality is ipso facto the same as a "psychopathic personality" is definitely unwarranted. In my work I have known and worked with a number of homosexuals (and here again precision in definition is needed, for people are found whose total sexual expression is homosexual, to those whose sexual experiencds are confined only partially to homosexuality). In a legal proceedings, definitions would need to be arrived at with care.

But even when one's sexual expression is totally homosexual that individual may function effectively in his personal, business and social relations and be as normal so far as personality attributes and behavior is concerned as those who are heterosexual.

Just as heterosexuality cannot be automatically equated with healthy personalities, so is it impossible to equate homosexuality with "psychopathic personality."

Sincerely yours,

/s/ Lester A. Kirkendall
Professor of Family Life



CEDARS-SINAI MEDICAL CENTER

Reply to
8720 BEVERLY BOULEVARD
LOS ANGELES, CALIFORNIA 90048

Telephone: 652-5000
Area Code 213

December 14, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17 Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

The following excerpts from the introduction to my book on "Sexual Inversion: The Mutliple Roots of Homosexuality" may be pertinent to the case of the alien Canadian whom the United States Immigration and Naturalization Service is attempting to deport on the grounds that his homosexuality makes him ipso facto a "psychopathic personality:"

> "Hooker's findings, justify the conclusion that sexual deviance in itself does not necessarily mean social maladjustment. Although exclusively homosexual behavior does — as most psychoanalysts argue — reflect a functional limitation in the capacity for heterosexuality, the possibility must be granted that under certain circumstances this limitation may not necessarily interfere with reasonably satisfactory life adjustment. If the judgments of psychoanalysts about heterosexuals were based only on those they see as patients, would they not have the same skew impression of heterosexuals as a group?"

"The assumption that homosexuals are all alike is a stereotype born of cultural prejudice, the absurdity of which becomes obvious if compared to the corresponding assumption that heterosexuals are all alike. . . . I am not denying that the spectrum of personality distribution in homosexuals tends to be more heavily weighted toward neurotic patterns of behavior than is that of heterosexuals. This is inevitable in a society that makes such behavior ipso facto, maladaptive. . . . Therefore, individuals who adopt such deviant behavior in our society are statistically more likely to feel inadequate and to show evidences of less adequate ego formation. Granting all this, there is, nevertheless, as wide a personality variation among homosexuals as among heterosexuals: from extremely passive to extremely aggressive ones; from quiet introverts to loud and raucous extroverts; from hysterics to compulsives; from sexually inhibited and timid types to sexually promiscuous and self-flaunting ones; from irresponsible sociopaths to highly responsible and law-abiding citizens. Their psychiatric diagnoses, apart from the homosexual symptom, run the entire gamut of modern nosology."

In short, I would strongly emphasize that current scientific evidence shows no justification for classifying homosexuals automatically as psychopathic personalities. To do so is a clear indication of stereotyping based on social prejudice and not on scientific evidence.

Very truly yours,

/s/ Judd Marmor, M.D.
Director
Divisions of Psychiatry

MARGARET MEAD
15 WEST 77TH STREET
NEW YORK 24, N. Y.

December 23, 1966

Mr. Clark P. Polak
Executive Secretary
The Homosexual Law Reform
Society of America
34 South 17th Street
Philadelphia, Pa. 19103

Dear Mr. Polak:

In regard to your query of December 7th, 1966 asking for my position on the question of whether homosexuality per se constituted pathology, I refer you to the following paragraphs:

> The cross-cultural and cross-species comparisons presented in this chapter combine to suggest that a biological tendency for inversion of sexual behavior is inherent in most if not all mammals including the human species. At the same time we have seen that homosexual behavior is never the predominant type of sexual activity for adults in any society or in any animal species.
>
> Some homosexual behavior occurs in a great many human societies. It tends to be more common in adolescence than in adulthood and appears to be practiced more frequently by men than by women. This is also true of the other animal species with which this chapter deals, and particularly so in the infrahuman primates.
>
> The basic mammalian capacity for sexual inversion tends to be obscured in societies like our own which forbid such behavior and classify it as unnatural. Among these peoples social forces that impinge upon the developing personality from earliest childhood tend to inhibit and discourage ho-

> mosexual arousal and behavior, and to condition the individual exclusively to heterosexual stimuli. Even in societies which severely restrict homosexual tendencies, however, some individuals do exhibit homosexual behavior. In our own society, for example, homosexual behavior is more common than the cultural ideals and rules seem to indicate. Within the societies which, unlike our own, provide socially acceptable homosexual roles, a number of individuals, predominantly men, choose to exhibit some measure of homosexual behavior.

taken from PATTERNS OF SEXUAL BEHAVIOR, by Clellan S. Ford, Ph.D. and Frank A. Beach, Ph.D. with a foreword by Robert Latou Dickenson, M.D., page 143.

I enclose a Xerox copy of the page in question. I regard this as the most firmly based, best statement on the subject, as it represents sound biological research and extensive cross-cultural research.

Sincerely yours,

/s/ Margaret Mead

Enclosure (2)

PATTERNS OF SEXUAL BEHAVIOR

by CLELLAN S. FORD, *Ph.D.*
Associate Professor of Anthropology, Yale University

and FRANK A. BEACH, *Ph.D.*
Professor of Psychology, Yale University

WITH A FOREWORD BY
ROBERT LATOU DICKINSON, M.D.

HARPER & BROTHERS, PUBLISHERS
and
PAUL B. HOEBER, INC., MEDICAL BOOKS

does not belong under the general rubric of homosexuality. This is the relationship that occurs when a male and female engage in coital performance, but each one takes the role of the opposite sex. Hamilton has described an encounter between two monkeys which illustrates such double inversion. A large female approached a younger and smaller male and, apparently because of her aggressive bearing, the male assumed the feminine coital posture. The female mounted the male in masculine fashion, but dismounted almost at once and offered herself to the male who promptly copulated in the normal manner. It is not at all uncommon to observe the temporary display of masculine behavior on the part of receptive females confronted with sexually sluggish males. Female dogs, rats, and other animals in heat may mount the male repeatedly if he is slow to assume the initiative in the sexual relationship. Often this stimulation suffices to evoke more vigorous behavior on the male's part.

Summary

The cross-cultural and cross-species comparisons presented in this chapter combine to suggest that a biological tendency for inversion of sexual behavior is inherent in most if not all mammals including the human species. At the same time we have seen that homosexual behavior is never the predominant type of sexual activity for adults in any society or in any animal species.

Some homosexual behavior occurs in a great many human societies. It tends to be more common in adolescence than in adulthood and appears to be practiced more frequently by men than by women. This is also true of the other animal species with which this chapter deals, and particularly so in the infrahuman primates.

The basic mammalian capacity for sexual inversion tends to be obscured in societies like our own which forbid such behavior and classify it as unnatural. Among these peoples social forces that impinge upon the developing personality from earliest childhood tend to inhibit and discourage homosexual arousal and behavior, and to condition the individual exclusively to heterosexual stimuli. Even in societies which severely restrict homosexual tendencies, however, some individuals do exhibit homosexual behavior. In our own society, for example, homosexual behavior is more common than the cultural ideals and rules seem to indicate. Within the societies which, unlike our own, provide socially acceptable homosexual roles, a number of individuals, predominantly men, choose to exhibit some measure of homosexual behavior.

INSTITUTE OF PSYCHIATRY

UNIVERSITY OF LONDON
DIVISION POSTGRADUATE MEDICAL FEDERATION

THE MAUDSLEY HOSPITAL
DENMARK HILL
LONDON S.E.5.
RODNEY 6133

December 20, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
37 South 17th Street
Philadelphia, Pennsylvania 19103, U.S.A.

Dear Mr. Polak,

Thank you for your letter of 7th December.

I am not sure that my personal views are necessarily likely to be of help to you.

It is my opinion that homosexuality may or may not co-exist in the same individual with mental illness. The fact that a person has a loving sexual relation with a member of the same sex does not imply that they need exhibit any other form of personality disorder, mental illness, or psychopathy. It is not uncommon for such an individual to be a talented, even distinguished member of society and one who shows integrity and reliability in his relations with others. Such a person is, of course, as likely or as unlikely to come into conflict with the law as a practicing heterosexual, that is - the rest of society.

Having said this, however, I think it should be stated that, in clinical practice, people with homosexual problems are often unhappy and likely to be disturbed in other respects. I mean by this, and I think it generally true, that if a patient has a major sexual difficulty, it is likely that other areas of the personality will be involved.

I do not imagine that data from biology and animal behaviour would be admissible. But it is true to say that homosexual behaviour occurs spontaneiously in all the primates that have been studied as well as in a wide range of infra-primate mannals. If one takes the view that Man, in his evoluation, is not distinct and separate, this behaviour would be a predicted variation in human beings also.

Yours sincerely,

/s/ Richard P. Michael
Senior Lecturer in Psychiatry,
Institute of Psychiatry,
University of London.
Honorary Consultant Physician,
Bethlem Royal and Maudsley
Hospitals.
Director, Primate Research Centre.

THE JOHNS HOPKINS MEDICAL INSTITUTIONS
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OFFICE OF PSYCHOHORMONAL RESEARCH
Departments of Psychiatry & Pediatrics
The Johns Hopkins University
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Reply to: Phipps 409
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Baltimore, Maryland 21205
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December 19, 1966

Mr. Clark P. Polak
Executive Secretary
Homosexual Law Reform Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

In response to your letter of December 6, concerning the question of homosexuality and psychopathology, you will find the enclosed reprint, Factors in the Genesis of Homosexuality, of pertinent relevance.

It is possible, by examining various rare medical syndromes, to show that homosexuality and psychopathology are independent entities. Take, for example, the syndrome of testicular feminization. Individuals with this condition have the visible structure and appearance of females. They do not menstruate and cannot conceive, but they can and do have sexual intercourse as a female. Instead of having ovaries, they have two testicles. Their internal reproductive organs are male, not female. Genetically, they have the XY, male chromosome complement, not the XX of the female. These people marry as females. The husband is therefore in the position of having sexual relations with a wife who has two testicles and is a genetic male. Genetically and gonadally, the pair are in a homosexual partnership, though on the criterior of external sexual organs they are not. Typically there is never an issue of psychopathology. The husband is not accused of being a psychopath because he has a sexual relationship which is genetically and gonadally homosexual; nor is the wife.

Another similarly instructive syndrome is that of congenital virilizing adrenal hyperplasia in a female, so extreme in its degree of virilization that a genetic female baby is born with a completely normal-looking penis instead of female external sex organs. Consider the case of such a baby who grows up as a boy and marries as a man. Genetically, this person is female and has two ovaries and female interval organs, but the appearance of the body as it develops is masculine. The marriage partner is a normal female. Would this wife or husband be considered psychopaths because their marital relationship is genetically and gonadally homosexual? The answer is no.

Now, a very tricky, complementary issue is presented if you imagine the patient just described being sexually attracted to a man instead of a wife. Both partners then would have a penis and so, on that criterian, would be in a homosexual relationship. But on the genetic and gonadal criterian, they would be not homosexual but heterosexual, since the patient has two ovaries and the XX chromosomes of the female. Would either of them be considered psychopathic because they both had a penis? I rather doubt it. Most people would allow the chromosomal and gonadal heterosexuality to be an extenuating circumstance, and dismiss the psychopathic accusation.

I have examined the above two test cases to demonstrate that homosexuality per se does not automatically qualify as a psychopathic trait.

It is quite another question as to whether people who are ordinarily considered to be homosexual are also psychopaths by reason of exhibiting a second symptom of psychopathology or psychopathic personality. The answer here is perfectly clear: homosexuality as a matter either of psychosexual identity (obligative homosexuality) or of transient opportunism in an otherwise heterosexual person (facultative homosexuality) can occur totally independently of other psychologic symptoms.

Whether the latter are present or not is a matter of individual diagnosis, case by case.

When they do coexist with homosexuality, these other symptoms are not of any specific variety. They are not particularly likely to be symptoms of that special antisocial, sociopathic type that are subsumed under the technical term "psychopathic personality."

I do not think that society is psychopathically endangered if a homosexual is permitted to immigrate. In fact, the very reverse could be true, insofar as many extraordinarily accomplished people in all walks of life, who have much to contribute to the nation's advancement, would be excluded if all homosexuals are, de facto, excluded as psychopathic.

Sincerely yours,

John Money, Ph.D.
Associate Professor of Medical
Psychology and Pediatrics

LEONARD B. OLINGER, PH.D.
468 NORTH BEDFORD DRIVE
BEVERLY HILLS, CALIFORNIA 90210
CRESTVIEW 6-2278

DIPLOMATE IN CLINICAL PSYCHOLOGY
AMERICAN BOARD OF EXAMINERS IN PROFESSIONAL PSYCHOLOGY

December 12, 1966

Clark P. Polak, Esq.,
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak,

Thank you for your letter of 6 December, in which you acquaint me with the case currently before the US Supreme Court. As you may know, issues of this kind periodically turn up, and expert testimony then is requested regarding the question of homosexuality and psychopathology.

There are those who still espouse the notion that was born and nurtured during the era of pre-scientific thinking, to the effect that homosexuality is a specific disease entity, and, as such, is psychopathological. Persons championing this position most frequently, when pressed for evidence to support their position, offer "proof by assertion", or resort to the authority of the Bible or legal statutes, even if circular reasoning thereby results. More psychodynamically-oriented clinicians have always known that the equation is not a proven (and probably not even a justified) one, but these voices have often been lost in a whisper when confronted with the gale of terror-engendered choruses of the ignorant and the frightened. The tendency to regard homosexuality as an illness or pathology per se was unfortunately reinforced by the same kind of thinking that permitted masturbation to be conceived of as leading to mental illness; in both cases, there was an association between the phenomena and the setting where they were viewed: Persons seeing mental

patients masturbating, out of boredom or for any other, of a variety of reasons, in mad houses or neuro-psychiatric hospitals, could naively assume that the one was the cause of the other. This same primitive logic system (Post hoc, ergo propter hoc = After this, therefore because of this) led many uncritical observers to assume that since the first studied homosexuals were ones who had run afoul of the law or had been encountered in hospitals (even though countless ones managed to function outside of hospitals and jails), all such persons must be ill, and all such illness derives from the pre-existing (or mistakenly assumed) conditions.

It was with much gratification, then, that the researches of persons such as Dr. Evelyn Hooker (400 South Saltair Avenue, Los Angeles, California 90049), of whom you may have heard, were received by those of us who needed more systematic study of matched groups of homosexuals and heterosexuals. I believe you will find that she has data bearing very much on the point of whether psychopathology and homosexuality may in fact be so easily equated. It goes without saying that such studies indicate that homosexuality may exist in the absence of psychopathology, and that there is room for both health and/or psychopathology in persons with a heterosexual orientation. It may still be a matter of opinion (since all opinion is something that is somewhere between ignorance and fact), but the kind of evidence which rigorously-conducted studies and investigations (such as Doctor Hooker's, who is a Research Associate at UCLA) offers, might hopefully be accepted by the Court as better grounded. Perhaps you should get in touch with her.

Sincerely,

/s/ Leonard B. Olinger, Ph.D.
State-Certified Clinical Psychologist — CP 1550

NORMAN REIDER, M.D.
2380 Sutter Street
San Francisco 15, California

December 10, 1966

Mr. Clark Polak
Executive Secretary
H. L. R. Society
34 South 17th St.
Philadelphia, Pa.

Dear Mr. Polak:

Forgive me for writing you a reply to your letter of December 7, instead of having it typed. I am leaving on a trip and have to send it to you this way; otherwise it would be too late for your purpose.

I support your amicus brief in regard to the action to deport a homosexual for the following reasons:

(1) Homosexuality per se is no evidence of psychopathology. There are many many instances of heterosexuality wherein heterosexuality is based on more psychopathology than one sees in some homosexuals.

(2) To relegate by definition homosexuality ino the category of "psychopathic personality" has been for years a convenient dispositional device by armed services, courts and diagnostic centers. This practice is falling away by all scientifically-minded workers in the field as evasive, unscientific and discriminatory.

(3) Homosexuals can be as honest, courageous, contributory to society and as trustworthy as a heterosexual. The Federal law is unfair that it lends itself to the use of labels which can be used capriciously; the law should be in operational terms and not in diagnostic ones.

Sincerely,

/s/ Norman Reider

Established 1932
Sexology
An Authoritative Guide to Sex Education
MAGAZINE
154 WEST 14TH STREET
NEW YORK, N. Y. 10011
212 ALGONQUIN 5-7755

December 14, 1966

Mr. Clark P. Polak
Homosexual Law Reform Society
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

It is my professional opinion that any attempt to classify an individual as a "psychopathic personality" purely on the basis of the fact of his homosexuality is both grossly unjust and highly unscientific. Although there are sharp differences of opinion among psychiatric and psychological specialists concerning the etiology of homosexual behavior, there is considerable agreement that homosexuality is not a clinical entity and is therefore found in the most diverse kinds of persons.

Although individuals with severe emotional maladjustment and criminal behavior are found among homosexuals (as among heterosexuals), there are also found many socially useful and able citizens among them, in all walks of life and professions including members of the clergy. A number of them are making highly significant contributions to the social and cultural life of our country; in past history, some emerged as intellectual or cultural leaders of eminence. Thus, to deny persons otherwise qualified as citizens the privilege of citizenship on the basis of homosexual behavior per se is to deprive our nation of important human resources as well as to commit an injustice against them.

As editor of a magazine specializing in sexual matters and as an officer of the Sex Information and Educa-

tion Council of the U.S., Inc. and author of the latter's study guide on homosexuality, I have followed recent empirical research in the field of homosexuality with some care. It has become increasingly evident from carefully controlled studies that past thinking, which identified homosexuality and severe pathology, was based on inadequate and distorted samples consisting of prison populations or of psychiatric patients. Some of these recent studies have found that -- at least in the groups studied -- severe emotional maladjustment was not more prevalent among homosexuals than among comparable heterosexual groups. Whether these studies can be generalized to the entire homosexual population is not established by present knowledge, nor is it at issue in the present case. What is at issue is whether any of the homosexuals studied could be characterized as stable, constructive and socially useful persons, or whether all of them had necessarily to be characterized as psychopathic.

I can find no scientific evidence to support the belief that all homosexuals are necessarily psychopathic and that therefore we have no choice but to consider each case individually and upon its own merits.

Sincerely yours,

/s/ Isadore Rubin, Ph.D.
Editor, Sexology Magazine

DR. HENDRIK M. RUITENBEEK
48 FIFTH AVENUE
NEW YORK 3, N. Y.

December 15, 1966

To Whom It May Concern:

It is my firm and considerate opinion that there is no link between homosexuality and psychopathology. Homosexuality is a variety of the whole complex of sexual behavior. Sigmund Freud and Magnus Hirschfeld both believed that homosexuality was not an illness and I feel I am in good company with the two people just mentioned.

That some homosexuals might be neurotic or psychotic does not prove the link between homosexuality and psychopathology. Many of my heterosexual patients are either neurotic or psychotic, but that does not mean that there is a link between heterosexuality and psychopathology.

Cordially yours,

/s/ Dr. Hendrik M. Ruitenbeek

COMMISSION on
UNDERGRADUATE
EDUCATION in the
BIOLOGICAL SCIENCES
1717 MASSACHUSETTS AVE., N.W., SUITE 403
WASHINGTON, D.C. 20036 / 202-232-1166

December 20, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

I have reviewed your letter of December 7 very carefully. From my analysis of the circumstances, I don't believe that opinions based on my professional experience and expertise would contribute support to either side of the question (which the Homosexual Law Reform Society of America is attempting to clarify) concerning homosexuality and psychopathology.

From my own work with domestic animals, I know that homosexuality among cattle is quite commonplace and indeed is frequently the rule. In chickens, turkeys and Japanese quail, such behavior is not uncommon and certainly not considered pathological. However, I have never worked with humans and so cannot extrapolate my findings to human social situations.

You would be well advised to seek counsel from persons whose professional experience includes analysis of the basic problems involved, both in psychic areas as well as physical growth and development. Some authority in the field of mammalian development and endocrinology would have opinions that would be more significant and scientifically valid than my own.

I am sorry that I can't be more helpful.

Sincerely yours,

/s/ Martin W. Schein

BIRKBECK COLLEGE, UNIVERSITY OF LONDON
RESEARCH PROJECT, OPINION

Please reply to:
28 LYNDHURST GARDENS
LONDON, N.W.3

December 12, 1966

The Homosexual Law Reform Society,
34, S. 17th Street,
Philadelphia, Pennsylvania 19103. U.S.A.

Dear Sirs,

I write, not as a medical man, but as a social psychologist who has carried out a long and detailed research on behalf of the British Home Office and Birkbeck College of the University of London. The results of this research are reported in detail in a book entitled: THE SOCIOLOGICAL ASPECTS OF HOMOSEXUALITY.

The main conclusion of this research is that homosexuality is a condition which in itself has only minor effects upon the development of the personality. The idea that homosexuality is pathological is incorrect; this mistaken idea has arisen because in the past studies of homosexuals in clinics and prisons have shown that many of them are neurotic. But in fact most homosexuals do not seek treatment and do not get into trouble with the law. A study of those who have not been under treatment or arrest shows that homosexuality is not a pathological condition.

Yours faithfully,

/s/ Michael Schofield

THOMAS S. SZASZ, M. D.
750 EAST ADAMS STREET
SYRACUSE, NEW YORK 13210

TELEPHONE: 472-5630

December 19, 1966

Mr. Clark P. Polak
Executive Secretary
Janus Society of America
34 South 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

In accordance with your request of December 6, I summarize below my opinion on the relation between homosexuality and psychopathology. You may use this, as you deem fit, in support of your defense of the case mentioned in your letter.

In my judgment, "psychopathology" — or "mental illness" — is a highly misleading term. It is not, as commonly supposed, an illness, in any ordinary sense; instead, it is the name for some types of behavior. What kinds of behavior are categorized as "sick" is arbitrary in exactly the same sense as it is arbitrary to categorize one religion as "true" and all others as "false," or one skin color as "superior" and all others as "inferior."

Accordingly, whether homosexuality is "pathological" is wholly a matter of definition. It is important to note, however, that Sigmund Freud, on whose work so much of contemporary American psychiatric thought and practice rests, stated emphatically that homosexuality is not a disease. In his famous letter to a mother who wrote to him about her homosexual son, he said [1935]: "Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness. . . . It is a great injustice to persecute homosexuality as a crime, and cruelty, too."

I share Freud's foregoing opinion. In my judgment, homosexuality is neither a bodily disease, nor a mental illness, nor a symptom or manifestation of "psychopathic personality."

For a more detailed exposition and documentation of my views on this subject, please see the following of my publications:

"The Ethics of Birth Control," The Humanist, 20: 332-336, 1960) (Copy enclosed.)

The Myth of Mental Illness (New York: Hoeber-Harper, 1961) (English edition, 1962; Italian edition, 1966).

Law, Liberty, and Psychiatry (New York: Macmillan, 1963)

"Psychiatry as Ideology," in The Rationalist Annual (England) 1965, pp. 43-52. (Copy enclosed.)

"Legal and Moral Aspects of Homosexuality," in Judd Marmor, ed., Sexual Inversion (New York: Basic Books, 1965), pp: 124-139. (Copy enclosed.)

"Mental Illness is a Myth," The New York Times Magazine, pp. 30 & 90-92. (Copy enclosed.)

Sincerely yours,

/s/ Thomas S. Szasz, M.D.

Ernest van den Haag
52 West 9th Street
New York 11, N. Y.
GRamercy 7-7585

December 11, 1966

Mr. Clark P. Polak
Janus Society of America
34 S. 17th Street
Philadelphia, Pennsylvania 19103

Dear Mr. Polak:

I refer to your letter of December 6th.

It is my opinion that, for various reasons, the incidence of various personality disorders among homosexuals might well be greater than among heterosexuals. One reason might be the social ostracism to which homosexuals are subjected. However there is no reason to assume, and no evidence to prove, that homosexuals per se suffer necessarily from abnormalities, or that homosexuality is itself a disease. Specifically, I find no reasons any no evidence to assume that homosexuals have a "psycho-pathological" personality.

The evidence also indicates that a great number of homosexuals have led, and are capable of leading, useful and creative lives, maintaining peaceful relationships with their fellow citizens.

A number of experts in psycho-pathlogy, beginning with Sigmund Freud, hold the view that I share. My view, in this regard, has been expressed in some detail in "The Problem of Homosexuality in Modern Society", edited by Hendrik M. Ruitenbeek, Published by Dutton, 1963.

Sincerely yours,

/s/ Ernest van den Haag
Adjunct Professor in Social Philosophy, New York University; Lecturer in Psychology and Sociology, New School for Social Research

APPENDIX E

A STUDY AID

Prepared by the Committee on Religious Concerns of the Mattachine Society of Washington

IS HOMOSEXUALITY A SICKNESS?
A Compendium of Informed Opinion in the Negative

* * *

"I would like to say that I could tell the reader in a few words the nature, cause and cure of homosexuality. It would then be superfluous for him to read any other book on the subject. I am sorry that I cannot do this. We all seem to be as far from being able to do this as we are from expounding the nature, cause and cure of heterosexuality or of love — or indeed of life and the universe itself with all its manifold phenomena. Indeed, the latter task may seem to be as near to, or as far from solution as the former."

Dr. Charles Berg, F.B.P.s.S., D.P.M.
Co-Author of The Problem of Homosexuality, 1958

This pamphlet is a representative, but by no means exhaustive compilation of professional and authoritative commentary opposed to the concept of homosexuality as a sickness, disturbance, or other pathology.

The following quotations have been somewhat hurriedly arranged during the month preceding the January 7, 1966 meeting of the Special Needs Sub-Committee of the

Department of Ministry, Vocation and Pastoral Services of The National Council of Churches of Christ in the U.S.A.

The Committee on Religious Concerns,
The Mattachine Society of Washington

P.O. Box 1032
Washington, D.C. 20013

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DR. J. H. KAHN
Johns Hopkins Medical School

"Homosexuals are not sexual curiousities, anomalies, NOR ALWAYS IN CONFLICT WITH THEMSELVES. Those who are in distress need the help which others require, who are in the same degree of emotional turmoil."

DR. ROBERT LINDNER
Author of: Handbook of Correctional Psychology, Contemporary Criminal Hygiene, Explorations in Psychoanalysis, Rebel Without A Cause, The Fifty Minute Hour, and Must You Conform?

"Within the last few decades the idea that homosexuality is an illness, a mental disease, an abnormality of behavior falling within the provice of psycho-pathology, has gained broad acceptance. During the recent war, when psychiatry and clinical psychology surged to prominence, this notion took hold. Today, many of my colleagues in these fields have abandoned that naive view, modified it, or tend toward the conceptions I have outlined in these pages . . . Declaring the homosexual mentally ill, therefore, brings him within the compass of this regressive view and the range of all the "therapies" devised to insure his conformity. It may masquerade as a boon to the invert and a humanitarian modification of

historic prejudice and hate: it is, in fact, but another way to obtain the conformance — this time in the area of sex-behavior — our dangerously petrifying institutions demand."

DR. CLARENCE A. TRIPP (Ph.D.)
Clinical Instructor at the Downstate Medical Center (Brooklyn, New York)

"Notions that homosexuality is unnatural and sick — and that its so-called cure would always be desirable, are still held by some professionals, and the lay public in general. Issues of sickness are made seemingly more valid in the eyes of clinicians by the fact that they so consistently see a sample of the population where homosexual tendencies are associated with severe guilt, conflict, or other neurotic disturbances. . . . As for psychotherapy, I know of not one single validated instance of any basic sexual change ever having been accomplished. Nor was the Kinsey Research ever able to find a single instance of any such change. Nor does the issue seem to be of the least importance. Even if there were treatment procedures for successfully revising an individual's whole personal value system, would we be ready to apply those procedures . . . to those millions of persons who are primarily homosexual for their entire lives?"

DR. GEORGE WEINBERG (Ph.D.)
Author of many articles on psychology and statistics, as well as a textbook, Statistics: An Intuitive Approach, and the soon to be released Personality Change. Dr. Weinberg is a psychotherapist in private practice in New York City. He is a former professor at New York University and Hunter College. Dr. Weinberg spoke at the 1965 ECHO Conference and took a strong anti-sickness stand, in which he told homosexuals about the dangers of Psychoanalysis. He said:

"Some homosexuals seeking cures have very dominating analysts and they are actually afraid to admit to their anlysts that they have not been cured."

DR. ISADORE RUBIN (Ph.D.)
Managing Editor of Sexology Magazine

"Unless there is a place for the homosexual in the Great Society there will never be a great society in any meaningful sense. . . . The body of evidence which says that homosexuality is not a sickness has grown to a point where it can no longer be ignored. . . . The Journal of the American Medical Association continues to disregard studies proving that homosexuality is not an illness . . . We cannot create a great society while condemning millions of our fellow citizens."

DR. E. M. MARSH
Gynecologist (San Francisco)

"Doctors should take the scientific and biological view, in which no sexual activity is 'un-natural' if they want to do their patients the most good . . . The theologian makes a moral judgment based on the traditional Judeo-Christian code of behavior; the sociologist asks what's best for the greatest number; the lawyer asks what's legal. The physician should make no judgment apart from that which has to do with the physical and mental health of his patient. Doctors are as poorly educated about sex and as much in the dark as other people. Still, they are the ones most often asked for advice about it."

DR. WARDELL B. POMEROY
Co-Author of the Kinsey Research findings

"Yes, times are changing. There is a real opportunity for the Mattachine Society to play a role during this period of flux. It will not accomplish this role as long as its members believe the nonsense that society has been

saying for the past 150 years, or as long as they are weighed down by feelings of low self-esteem induced by society's attitude toward them. When you (homosexuals) are called nuts and neurotics and goofers by therapists, immoral by the clergy, criminals by lawyers and judges, and perverts and child seducers by the public, you need a special kind of faith in yourself and faith in your fellow man before the collective ego of the Mattachine Socity can be healthy and effective."

DRS. DESMOND CURRAN AND J. WHITBY
(from the British Medical Journal — September 14, 1957)

"For the patient who is adjusted to being homosexual much less is possible; no doctor could produce for the Wolfenden Committee a "cured" case of complete homosexuality."

DR. SIGMUND FREUD
Founder of Psychoanalysis

"Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, IT CANNOT BE CLASSIFIED AS AN ILLNESS; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development. Many highly respectable individuals of ancient and modern times have been homosexuals, several of the greatest men among them (Plato, Michelangelo, Leonardo da Vinci, etc.) It is a great injustice to persecute homosexuality as a crime, and cruelty too."

DRS. KINSEY, POMEROY AND MARTIN
(Excerpts from Sexual Behavior in the Human Male. Baltimore: W. B. Saunders, 1948.

"The homosexual has been a significant part of human sexual activity ever since the dawn of history, primarily because it is an expression of capacities that are basic in the human animal. . . . The evidence which we now

have on the incidence and frequency of homosexual activity indicates that at least a third of the male population would have to be isolated from the rest of the community, if all those with any homosexual capacities were to be so treated. . . . It is argued that an individual who is so obtuse to social reactions as to continue his homosexual activity and make it any material portion of his life, therein evidences some social incapacity; but psychiatrists and clinicians in general might very well reexamine their justification for demanding that all persons conform to particular patterns of behavior. . . . As a matter of fact there is an increasing proportion of the most skilled psychiatrists who make no attempt to re-direct (homosexual) behavior, but who devote their attention to helping an individual accept himself, and to conduct himself in such a manner that he does not come into open conflict with society."

DR. ERNEST VAN DEN HAAG (Ph.D.)
Psychoanalyst, Sociologist, and Professor of Sociology at New York University and Professor of Sociology at the New School.

"It seems quite doubtful that homosexuality is a disease. . . Homosexual behavior often is a symptom or part of illness; so is heterosexual behavior. (I am reminded of a colleague who reiterated" all my homosexual patients are quite sick" — to which I finally replied "so are all my heterosexual patients." As our culture has absorbed analysis, analysts have become culture-bound. It seems a questionable gain). . . . Many homosexuals are neurotic or psychotic and seek the help of analysts, as do many heterosexuals. It does not follow that homosexuality itself is an illness — that it is always associated with clinical symptoms (other than the sexual choice itself) of disturbance. . . . I do not believe that homosexuality as such can or need be treated. But the sicknesses of homosexuals, in which homosexual-

ity plays a part, require treatment as do those of heterosexuals. . . . Homosexuality, therefore, is as natural as heterosexuality."

REPORT OF THE (WOLFENDEN) COMMITTEE ON HOMOSEXUAL OFFENSES AND PROSTITUTION. London: Presented by Command of Her Majesty, Queen Elizabeth.

"But we feel bound to say that the evidence put before us has not established to our satisfaction the proposition that homosexuality is a disease. . . . Our evidence suggests, however, that homosexuality does not satisfy any of them (the three criteria for a condition to be recognized as a disease) unless the terms in which they are defined are expanded beyond what could reasonably be regarded as legitimate. . . . Many people behave in an unusual, extraordinary or socially unacceptable way, but it seems to us that it would be rash to assume that unorthodox behavior is necessarily symptomatic of disease if it is the only symptom that can be demonstrated. . . . On the criterion of symptoms, however, homosexuality cannot legitimately be regarded as a disease, because in many cases it is the only symptom and is compatible with full mental health in other respects. . . . Our medical evidence seems to show three things: first, that in general practice male homosexuals form a very small fraction of the doctor's patients; secondly, that in psychiatric practice male homosexuality is a primary problem in a very small proportion of the cases seen; and thirdly, that only a very small percentage of homosexuals consult doctors about their condition."

DRS. DESMOND CURRAN (Consultant Psychiatrist and Member of the Wolfenden Committee) and DENNIS PARR (Dept. of Psychiatry, St. George's Hospital, London) The following are conclusions of both doctors based upon a study of 100 homosexuals:

"In our series, both practicing and non-practicing homosexuals were on the whole successful and valuable members of society, quite unlike the popular conception of such persons as vicious, criminal, effete, or depraved. We found no reason to regard most of the patients as physically, intellectually, or emotionally immature (unless the basic criterion for 'immaturity' is that of being a homosexual — a circular argument.) Only half of the patients showed significant psychiatric abnormality other than their sexual deviation, and such associated abnormalities were often slight. MOREVER, MANY OF THESE ABNORMALITIES WERE EXPLICABLE AS A REACTION TO THE DIFFICULTIES OF BEING HOMOSEXUAL. If homosexuality is a disease (as has often been suggested) it is in a vast number of cases MONOSYMPTOMATIC (having only a single symptom), NONPROGRESSIVE, AND COMPATIBLE WITH SUBJECTIVE WELL-BEING AND OBJECTIVE EFFICIENCY."

DR. HARRY BENJAMIN
Psychiatrist, Author

"If adjustment is necessary, it should be made primarily with regard to the position of the homosexual in present day society and society should more often be the patient to be treated than the invert.

" 'Must the individual homosexual be rejected in our time?' That such a question should even be asked makes me feel a bit ashamed. At least that was my first reaction. With similar justification we could ask whether a left-handed or a color-blind person should be rejected. All of these people exist, and they exist by no fault of their own. Quite naturally they should not be rejected. . . . As I see it, homosexuality can have a wide variety of reasons and motivations. Homosexuality is to be considered a symptom due to numerous underlying causes and not a fixed entity like a disease. It can hardly be called unnatural, being often a product of nature."

DR. BLANCHE M. BAKER
Psychiatrist, Writer

"I regard homosexualisim as a way of life and not a disease in any sense. I agree with the late Dr. Alfred Kinsey that homosexuality is one of our mammalian heritages appearing widespread in the general population as a matter of individual variation."

DR. J. A. HADFIELD
Lecturer on Psychopathology and Mental Hygiene at the University of London.

"I no longer take homosexuals on for treatment, for the number of cases any one analyst can treat is limited. The process of cure . . . cannot be considered a practical answer to the widespread incidence of homosexuality."

DR. D. STANLEY-JONES
Royal Society of Medicine -- Symposium on Homosexuality.

"Any course of therapy which seeks to reverse the fundamental pattern (homosexual orientation) is not only fore-doomed to failure, as all the reported cases testify, but is also quite indefensible when regarded in the light of absolute morality: attempted treatment or alteration of the basic personality (of a homosexual) can only be described as a moral outrage."

DRS. FRED H. BROWN (Clinical Psychologist at the Mt. Sinai Hospital) AND RUDOLF T. KEMPTON (Chairman, Department of Zoology, Vassar College)

"In order to understand inversion we must cease to view it as a disease. The homosexual or invert becpmes a problem for the psychologist because he does not fit into any clear niche in our society. . . . Sexual inversion is not a disease, but a consequence of biologic or psy-

chologic factors or a combination of both. . . . Psychological treatment has enabled individuals to make a better emotional adjustment to their homosexual wishes with reduction of such symtoms of nervous strain as already described."

RUTH BENEDICT
Famous Anthropologist, Author of Patterns of Culture
Columbia University

"Western Civilization tends to regard even a mild homosexual as an abnormal. The clinical picture of homosexuality stresses the neuroses and psychoses to which it gives rise, and emphasizes almost equally the inadequate functioning of the invert and his behavior. We have only to turn to other cultures, however, to realize that homosexuals have BY NO MEANS BEEN INADEQUATE TO THE SOCIAL SITUATION. THEY HAVE NOT ALWAYS FAILED TO FUNCTION. In some societies they have been especially acclaimed. . . . When the homosexual response is regarded as a perversion, however, the invert is immediately exposed to all the conflicts to which aberrants are always exposed. His guilt, his sense of inadequacy, his failures, are consequences of the disrepute which social tradition visits upon him, and few people can achieve a satisfactory life unsupported by the standards of their society. The adjustments that society demands WOULD STRAIN ANY MAN'S VITALITY, and the consequences of this conflict we identify with their homosexuality."

DR. med WOLFGANG E. BREDTSCHNEIDER
German Board of Psychiatry and Neurology

"The much used term 'against nature' is utterly ridiculous and cannot stand up against scientific or reasonable analysis, as long as such analysis is able to keep itself free from bias . . . Homoerotic behavior has always been, is, and will remain in all likelihood. Why

fight against it constantly? Why deny its actual existence? Why not, instead, render it useful for the sake of all?"

DR. DONALD JAMES WEST, M.B., D.P.M.

"Homosexual behavior seems to arise from some deep-rooted natural urge which finds different expression in different cultures. . . . such propensities are a part of man's natural biological inheritance. In our culture such tendencies are suppressed."

DR. CHARLES BERG, F.B.P.s.S., D.P.M.
Consultant Psychologist to the British Hospital for Functional Nervous Disorders, and late Physician to the Tavistock Clinic and the Institute for the Scientific Treatment of Delinquency. Author of many well-known books.

"Homosexuality is not a disease, nor even a clinical entity. It is nothing more than a particular form of expression, of a psychic state which is common to all living creatures. . . . In the light of what we know of psychology, this does not warrant the heterosexual feeling superior to the homosexual, or regarding him as somebody to whom he can teach better ways. . . . Like any human action, homosexuality — like heterosexuality — means something different in each individual."

DR. JOSEPH STEIN
Author of Maturity in Sex and Marriage, 1963

"To perceive it (homosexuality) as an unnatural deviation, an illness, and, therefore, as a perversion of the sexual instinct, is to lose sight of the fact that the social dictate does not reflect biology. . . . It would be very difficult to establish the existence of an exclusively HETEROSEXUAL instinct on the human level. There is considerable reason to think that if left to his own devices, modern man might not be so predominantely heterosexual, certainly not exclusively so."

DR. EVELYN HOOKER
The University of California, Author of Extensive Research Papers on Homosexuality

"What are the psychological implications of the hypothesis that homosexuality is not necessarily a symptom of pathology? I would, VERY TENTATIVELY suggest the following:

1. Homosexuality as a clinical entity does not exist. Its forms are as varied as heterosexuality.
2. Homosexuality may be a deviation in sexual pattern which is within the normal range, psychologically. This has been suggested on a biological level by Ford and Beach.
3. The role of particular forms of sexual desire and expression in personality structure and development may be less important than has frequently been assumed."

DRS. KURT HILLER, FRANZ REINHARD AND JUERGEN ROGGENHAUSEN, Germany

"We declare that love between those of the same sex, however incomprehensible, absurd, or even abhorrant it is to the feelings of normal people, is neither a vice nor a disease; it is not a mockery of nature but a manifestation of nature; it is an erotic variation that has been observed amongst all peoples of the earth since the dawn of human thought."

DR. VON KRAFFT-EBBING

"That contrary sexual sensation cannot thus be necessarily regarded as psychical degeneration, or even as a manifestation of disease, is shown by various considerations . . . It has become impossible to maintain in this connection the idea of 'disease'." — From New Studies in the Domain of Homosexuality.

DR. IWAN BLOCH
Author of The Sexual Life of Our Times

"I have observed a great number of homosexuals belonging to all ages and occupations in whom not the slightest trace of morbidity was to be detected. They were just as healthy and normal as heterosexuals. . . For me, there is no longer any doubt that homosexuality is compatible with complete mental and physical health."

DR. EUGENE DE SAVITSCH

"Homosexuals . . . probably constitute anything from 5 to 10 percent of our population, and in the majority of cases are no more responsible for their condition than is a brunette for her hair or a Negro for his skin . . . There is no germ, so far as we know, that makes an individual seek a member of his own sex . . . These people (well-adjusted homosexuals) should, in my opinion, keep as far as possible from the medical profession, except when suffering from appendicitis, pneumonia, or some organic ailment, the treatment of which will not upset their psychological balance."

DRS. CLELLAN S. FORD AND FRANK A. BEACH
(Dr. Ford is Professor of Anthropoligy, Yale University and Dr. Beach is Professor of Psychology, Yale University. They are authors of Patterns of Sexual Behavior.)

"Human homosexuality is the product of the fundamental mammalian heritage of general sexual responsiveness as modified under the impact of experience . . . The cross-cultural and cross species comparisons presented in this chapter combine to suggest that a biological tendency for inversion of sexual behavior is inherent in most if not all mammals including the human species."

DR. FRANK A. BEACH
Professor of Psychology, Yale

"People who say that homosexual activities are biologically abnormal are wrong. . . .We find ourselves then, agreeing with Gide in his contention that homosexual behavior should be classified as natural from the evolutionary and physiological point of view."

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A RECOMMENDED READING LIST

If you are unable to locate any of the books on the following reading list, the Committee on Religious Concerns of the Mattachine Society of Washington will gladly assist you. Write:

The Mattachine Society of
Washington
P.O. Box 1032
Washington, D.C. 20013

Bailey, D.S., Homosexuality and the Western Christian Tradition, London: Longmans, Green and Co., 1955

Benson, R.O.D., In Defense of Homosexuality, Julian Press, Inc. New York, 1965

*Cory, D.W., The Homosexual in America, New York: Greenberg, 1951

Cory, D.W. Ed., Homosexuality — A Cross Cultural Approach, New York: Julian Press, 1956

Ford, C.S., and Beach, F.A., Patterns of Sexual Behavior, Chap. VII New York: Harper and Hoeber, 1951

*Heron, A. (Ed.) Toward a Quaker View of Sex. London: Friends Home Service Committee, 1963

Hooker, E.A., A Preliminary Analysis of Group Behavior of Homosexuals, Journal of Psychiatry, 42: 217-225, 1956

Hooker, E.A., The Adjustment of the Male Overt Homosexual, Journal of Projective Techniques, 21: 18-31, 1957

Kinsey, A.C., et al., Sexual Behavior in the Human Male. Baltimore: W.B. Saunders, 1948, and Kinsey, A.C. et al., Sexual Behavior in the Human Female. Baltimore: W. B. Saunders, 1953

*Kuhn, D., (Ed.) The Church and the Homosexual, Glide Urban Center, 330 Ellis Street, San Francisco, California 94102

*Ruitenbeek, H. M., (Ed.) The Problem of Homosexuality in Modern Society. New York: Dutton, 1963

*Wolfenden, J., Report of the Committee on Homosexual Offenses and Prostitution. London: Her Majesty's Stationery Office, 1957. Published in U.S. by Stein and Day, 1963

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*Indicates that this book is available in a paperback edition.